

76-6-101. Definitions.

(1) For purposes of this chapter:

(a) "Fire" means a flame, heat source capable of combustion, or material capable of combustion that is caused, set, or maintained by a person for any purpose.

(b) "Habitable structure" means any building, vehicle, trailer, railway car, aircraft, or watercraft used for lodging or assembling persons or conducting business whether a person is actually present or not.

(c) "Property" means:

(i) any form of real property or tangible personal property which is capable of being damaged or destroyed and includes a habitable structure; and

(ii) the property of another, if anyone other than the actor has a possessory or proprietary interest in any portion of the property.

(d) "Value" means:

(i) the market value of the property, if totally destroyed, at the time and place of the offense, or where cost of replacement exceeds the market value; or

(ii) where the market value cannot be ascertained, the cost of repairing or replacing the property within a reasonable time following the offense.

(2) If the property damaged has a value that cannot be ascertained by the criteria set forth in Subsection (1)(d), the property shall be considered to have a value less than \$500.

Amended by Chapter 340, 2011 General Session

76-6-102. Arson.

(1) A person is guilty of arson if, under circumstances not amounting to aggravated arson, the person by means of fire or explosives unlawfully and intentionally damages:

(a) any property with intention of defrauding an insurer; or

(b) the property of another.

(2) A violation of Subsection (1)(a) is a second degree felony.

(3) A violation of Subsection (1)(b) is a second degree felony if:

(a) the damage caused is or exceeds \$5,000 in value;

(b) as a proximate result of the fire or explosion, any person not a participant in the offense suffers serious bodily injury as defined in Section 76-1-601;

(c) (i) the damage caused is or exceeds \$1,500 but is less than \$5,000 in value; and

(ii) at the time of the offense the actor has been previously convicted of a violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the commission of the violation of Subsection (1)(b).

(4) A violation of Subsection (1)(b) is a third degree felony if:

(a) the damage caused is or exceeds \$1,500 but is less than \$5,000 in value;

(b) as a proximate result of the fire or explosion, any person not a participant in the offense suffers substantial bodily injury as defined in Section 76-1-601;

(c) the fire or explosion endangers human life; or

(d) (i) the damage caused is or exceeds \$500 but is less than \$1,500 in value;

and

(ii) at the time of the offense the actor has been previously convicted of a violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the commission of the violation of Subsection (1)(b).

(5) A violation of Subsection (1)(b) is a class A misdemeanor if the damage caused:

(a) is or exceeds \$500 but is less than \$1,500 in value; or

(b) (i) is less than \$500; and

(ii) at the time of the offense the actor has been previously convicted of a violation of this section or Section 76-6-103 regarding aggravated arson within 10 years prior to the commission of the violation of Subsection (1)(b).

(6) A violation of Subsection (1)(b) is a class B misdemeanor if the damage caused is less than \$500.

Amended by Chapter 272, 2013 General Session

76-6-103. Aggravated arson.

(1) A person is guilty of aggravated arson if by means of fire or explosives he intentionally and unlawfully damages:

(a) a habitable structure; or

(b) any structure or vehicle when any person not a participant in the offense is in the structure or vehicle.

(2) Aggravated arson is a felony of the first degree.

Amended by Chapter 59, 1986 General Session

76-6-104. Reckless burning.

(1) A person is guilty of reckless burning if the person:

(a) recklessly starts a fire or causes an explosion which endangers human life;

(b) having started a fire, whether recklessly or not, and knowing that it is spreading and will endanger the life or property of another, either fails to take reasonable measures to put out or control the fire or fails to give a prompt fire alarm;

(c) builds or maintains a fire without taking reasonable steps to remove all flammable materials surrounding the site of the fire as necessary to prevent the fire's spread or escape; or

(d) damages the property of another by reckless use of fire or causing an explosion.

(2) (a) A violation of Subsection (1)(a) or (b) is a class A misdemeanor.

(b) A violation of Subsection (1)(c) is a class B misdemeanor.

(c) A violation of Subsection (1)(d) is:

(i) a class A misdemeanor if damage to property is or exceeds \$1,500 in value;

(ii) a class B misdemeanor if the damage to property is or exceeds \$500 but is less than \$1,500 in value; and

(iii) a class C misdemeanor if the damage to property is or exceeds \$150 but is less than \$500 in value.

(d) Any other violation under Subsection (1)(d) is an infraction.

Amended by Chapter 193, 2010 General Session

76-6-104.5. Abandoned fire -- Penalties.

(1) A person is guilty of abandoning a fire if, under circumstances not amounting to the offense of arson, aggravated arson, or causing a catastrophe under Title 76, Chapter 6, Part 1, Property Destruction, the person leaves a fire:

(a) without first completely extinguishing it; and

(b) with the intent to not return to the fire.

(2) A person does not commit a violation of Subsection (1) if the person leaves a fire to report an uncontrolled fire.

(3) A violation of Subsection (1):

(a) is a class C misdemeanor if there is no property damage;

(b) is a class B misdemeanor if property damage is less than \$1,000 in value; and

(c) is a class A misdemeanor if property damage is or exceeds \$1,000 in value.

(4) If a violation of Subsection (1) involves a wildland fire, the violator is also liable for suppression costs under Section 65A-3-4.

(5) A fire spreading or reigniting is prima facie evidence that the person did not completely extinguish the fire as required by Subsection (1)(a).

Amended by Chapter 320, 2009 General Session

76-6-105. Causing a catastrophe -- Penalties.

(1) Any person is guilty of causing a catastrophe if the person causes widespread injury or damage to persons or property by:

(a) use of a weapon of mass destruction as defined in Section 76-10-401; or

(b) explosion, fire, flood, avalanche, collapse of a building, or other harmful or destructive force or substance that is not a weapon of mass destruction.

(2) Causing a catastrophe is:

(a) a first degree felony if the person causes the catastrophe knowingly and by the use of a weapon of mass destruction;

(b) a second degree felony if the person causes the catastrophe knowingly and by a means other than a weapon of mass destruction; and

(c) a class A misdemeanor if the person causes the catastrophe recklessly.

(3) In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

Amended by Chapter 166, 2002 General Session

76-6-106. Criminal mischief.

- (1) As used in this section, "critical infrastructure" includes:
 - (a) information and communication systems;
 - (b) financial and banking systems;
 - (c) any railroads, airlines, airports, airways, highways, bridges, waterways, fixed guideways, or other transportation systems intended for the transportation of persons or property;
 - (d) any public utility service, including the power, energy, and water supply systems;
 - (e) sewage and water treatment systems;
 - (f) health care facilities as listed in Section 26-21-2, and emergency fire, medical, and law enforcement response systems;
 - (g) public health facilities and systems;
 - (h) food distribution systems; and
 - (i) other government operations and services.
- (2) A person commits criminal mischief if the person:
 - (a) under circumstances not amounting to arson, damages or destroys property with the intention of defrauding an insurer;
 - (b) intentionally and unlawfully tampers with the property of another and as a result:
 - (i) recklessly endangers:
 - (A) human life; or
 - (B) human health or safety; or
 - (ii) recklessly causes or threatens a substantial interruption or impairment of any critical infrastructure;
 - (c) intentionally damages, defaces, or destroys the property of another; or
 - (d) recklessly or willfully shoots or propels a missile or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving or standing.
- (3)
 - (a)
 - (i) A violation of Subsection (2)(a) is a third degree felony.
 - (ii) A violation of Subsection (2)(b)(i)(A) is a class A misdemeanor.
 - (iii) A violation of Subsection (2)(b)(i)(B) is a class B misdemeanor.
 - (iv) A violation of Subsection (2)(b)(ii) is a second degree felony.
 - (b) Any other violation of this section is a:
 - (i) second degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$5,000 in value;
 - (ii) third degree felony if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$1,500 but is less than \$5,000 in value;
 - (iii) class A misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss equal to or in excess of \$500 but is less than \$1,500 in value; and
 - (iv) class B misdemeanor if the actor's conduct causes or is intended to cause pecuniary loss less than \$500 in value.
- (4) In determining the value of damages under this section, or for computer crimes under Section 76-6-703, the value of any item, computer, computer network, computer property, computer services, software, or data includes the measurable value of the loss of use of the items and the measurable cost to replace or restore the items.

(5) In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses incurred in responding to a violation of Subsection (2)(b)(ii), unless the court states on the record the reasons why the reimbursement would be inappropriate.

Amended by Chapter 135, 2012 General Session

76-6-107. Graffiti defined -- Penalties -- Removal costs -- Reimbursement liability.

- (1) As used in this section:
 - (a) "Etching" means defacing, damaging, or destroying hard surfaces by means of a chemical action which uses any caustic cream, gel, liquid, or solution.
 - (b) "Graffiti" means any form of unauthorized printing, writing, spraying, scratching, affixing, etching, or inscribing on the property of another regardless of the content or the nature of the material used in the commission of the act.
 - (c) "Victim" means the person or entity whose property was defaced by the graffiti and bears the expense for its removal.
- (2) Graffiti is a:
 - (a) second degree felony if the damage caused is in excess of \$5,000;
 - (b) third degree felony if the damage caused is in excess of \$1,000;
 - (c) class A misdemeanor if the damage caused is equal to or in excess of \$300;and
 - (d) class B misdemeanor if the damage caused is less than \$300.
- (3) Damages under Subsection (2) include removal costs, repair costs, or replacement costs, whichever is less.
- (4) The court, upon conviction or adjudication, shall order restitution to the victim in the amount of removal, repair, or replacement costs.
- (5) An additional amount of \$1,000 in restitution shall be added to removal costs if the graffiti is positioned on an overpass or an underpass, requires that traffic be interfered with in order to remove it, or the entity responsible for the area in which the clean-up is to take place must provide assistance in order for the removal to take place safely.
- (6) A person who voluntarily, and at his own expense, removes graffiti for which he is responsible may be credited for the removal costs against restitution ordered by a court.

Amended by Chapter 278, 2013 General Session

76-6-107.1. Compensatory service -- Graffiti penalties.

- (1) If an offender uses graffiti and is convicted under Section 76-6-106 or 76-6-206 for its use, the court may, as a condition of probation under Subsection 77-18-1(8), order the offender to clean up graffiti of his own and any other at a time and place within the jurisdiction of the court.
 - (a) For a first conviction or adjudication, the court may require the offender to

clean up graffiti for not less than eight hours.

(b) For a second conviction or adjudication, the court may require the offender to clean up graffiti for not less than 16 hours.

(c) For a third conviction or adjudication, the court may require the offender to clean up graffiti for not less than 24 hours.

(2) The offender convicted under Section 76-6-106, 76-6-206, or 76-6-107 shall be responsible for removal costs as determined under Section 76-6-107, unless waived by the court for good cause.

(3) The court may also require the offender to perform other alternative forms of restitution or repair to the damaged property pursuant to Subsection 77-18-1(8).

Renumbered and Amended by Chapter 3, 2008 General Session

76-6-108. Damage to or interruption of a communication device -- Penalty.

(1) As used in this section:

(a) "Communication device" means any device, including a telephone, cellular telephone, computer, or radio, which may be used in an attempt to summon police, fire, medical, or other emergency aid.

(b) "Emergency aid" means aid or assistance, including law enforcement, fire, or medical services, commonly summoned by persons concerned with imminent or actual:

(i) jeopardy to any person's health or safety; or

(ii) damage to any person's property.

(2) A person is guilty of damage to or interruption of a communication device if the actor attempts to prohibit or interrupt, or prohibits or interrupts, another person's use of a communication device when the other person is attempting to summon emergency aid or has communicated a desire to summon emergency aid, and in the process the actor:

(a) uses force, intimidation, or any other form of violence;

(b) destroys, disables, or damages a communication device; or

(c) commits any other act in an attempt to prohibit or interrupt the person's use of a communication device to summon emergency aid.

(3) Damage to or interruption of a communication device is a class B misdemeanor.

Amended by Chapter 54, 2000 General Session

76-6-109. Offenses committed against timber, mining, or agricultural industries -- Enhanced penalties.

(1) A person who commits any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful management, cultivation, or harvesting of trees or timber, or the management or operations of agricultural or mining industries is subject to an enhanced penalty for the offense as provided below. However, this section does not apply to action protected by the National Labor Relations Act, 29 U.S.C. Section 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Section 151 et seq.

(2) The prosecuting attorney, or grand jury if an indictment is returned, shall

cause to be subscribed upon the complaint in misdemeanor cases or the information or indictment in felony cases notice that the defendant is subject to the enhanced penalties provided under this section.

(3) If the trier of fact finds beyond a reasonable doubt that the defendant committed any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful management, cultivation, or harvesting of trees or timber, or the management or operations of agricultural or mining industries, the penalties are enhanced as provided in this Subsection (3):

(a) a class C misdemeanor is a class B misdemeanor, with a mandatory fine of not less than \$1,000, which is in addition to any term of imprisonment the court may impose;

(b) a class B misdemeanor is a Class A misdemeanor, with a fine of not less than \$2,500, which is in addition to any term of imprisonment the court may impose;

(c) a class A misdemeanor is a third degree felony, with a fine of not less than \$5,000, which is in addition to any term of imprisonment the court may impose;

(d) a third degree felony is a second degree felony, with a fine of not less than \$7,500, which is in addition to any term of imprisonment the court may impose; and

(e) a second degree felony is subject to a fine of not less than \$10,000, which is in addition to any term of imprisonment the court may impose.

Amended by Chapter 214, 2000 General Session

76-6-110. Offenses committed against animal enterprises -- Definitions -- Enhanced penalties.

(1) As used in this section:

(a) "Animal enterprise" means a commercial or academic enterprise that:

(i) uses animals for food or fiber production;

(ii) is an agricultural operation, including a facility for the production of crops or livestock, or livestock products;

(iii) operates a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or

(iv) any fair or similar event intended to advance agricultural arts and sciences.

(b) "Livestock" means cattle, sheep, goats, swine, horses, mules, poultry, domesticated elk as defined in Section 4-39-102, or any other domestic animal or domestic furbearer raised or kept for profit.

(c) "Property" includes any buildings, vehicles, animals, data, or records.

(2) (a) A person who commits any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or cause the loss of any property owned by, used by, or in the possession of a lawful animal enterprise, is subject to an enhanced penalty under Subsection (3).

(b) Subsection (2)(a) does not apply to action protected by the National Labor Relations Act, 29 U.S.C. Section 151 et seq., or the Federal Railway Labor Act, 45 U.S.C. Section 151 et seq.

(c) The prosecuting attorney, or grand jury if an indictment is returned, shall

cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

(3) If the trier of fact finds beyond a reasonable doubt that the defendant committed any criminal offense with the intent to halt, impede, obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or cause the loss of any property owned by, used by, or in the possession of a lawful animal enterprise, the penalties are enhanced as provided in this Subsection (3):

(a) a class C misdemeanor is a class B misdemeanor, with a mandatory fine of not less than \$1,000, which is in addition to any term of imprisonment the court may impose;

(b) a class B misdemeanor is a class A misdemeanor, with a fine of not less than \$2,500, which is in addition to any term of imprisonment the court may impose;

(c) a class A misdemeanor is a third degree felony, with a fine of not less than \$5,000, which is in addition to any term of imprisonment the court may impose;

(d) a third degree felony is a second degree felony, with a fine of not less than \$7,500, which is in addition to any term of imprisonment the court may impose; and

(e) a second degree felony is subject to a fine of not less than \$10,000, which is in addition to any term of imprisonment the court may impose.

Enacted by Chapter 225, 2001 General Session

76-6-111. Wanton destruction of livestock -- Penalties -- Seizure and disposition of property.

(1) As used in this section:

(a) "Law enforcement officer" is as defined in Section 53-13-103.

(b) "Livestock" means a domestic animal or fur bearer raised or kept for profit, including:

(i) cattle;

(ii) sheep;

(iii) goats;

(iv) swine;

(v) horses;

(vi) mules;

(vii) poultry; and

(viii) domesticated elk as defined in Section 4-39-102.

(2) Unless authorized by Section 4-25-4, 4-25-5, 4-25-14, 4-39-401, or 18-1-3, a person is guilty of wanton destruction of livestock if that person:

(a) injures, physically alters, releases, or causes the death of livestock; and

(b) does so:

(i) intentionally or knowingly; and

(ii) without the permission of the owner of the livestock.

(3) Wanton destruction of livestock is punishable as a:

(a) class B misdemeanor if the aggregate value of the livestock is \$500 or less;

(b) class A misdemeanor if the aggregate value of the livestock is more than \$500, but does not exceed \$1,500;

(c) third degree felony if the aggregate value of the livestock is more than \$1,500, but does not exceed \$5,000; and

(d) second degree felony if the aggregate value of the livestock is more than \$5,000.

(4) A material, device, or vehicle used in violation of Subsection (2) is subject to forfeiture under the procedures and substantive protections established in Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act.

(5) A peace officer may seize a material, device, or vehicle used in violation of Subsection (2):

(a) upon notice and service of process issued by a court having jurisdiction over the property; or

(b) without notice and service of process if:

(i) the seizure is incident to an arrest under:

(A) a search warrant; or

(B) an inspection under an administrative inspection warrant;

(ii) the material, device, or vehicle has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(iii) the peace officer has probable cause to believe that the property has been used in violation of Subsection (2).

(6) (a) A material, device, or vehicle seized under this section is not repleviable but is in custody of the law enforcement agency making the seizure, subject only to the orders and decrees of a court or official having jurisdiction.

(b) A peace officer who seizes a material, device, or vehicle under this section may:

(i) place the property under seal;

(ii) remove the property to a place designated by the warrant under which it was seized; or

(iii) take custody of the property and remove it to an appropriate location for disposition in accordance with law.

Amended by Chapter 193, 2010 General Session

76-6-112. Agricultural operation interference -- Penalties.

(1) As used in this section, "agricultural operation" means private property used for the production of livestock, poultry, livestock products, or poultry products.

(2) A person is guilty of agricultural operation interference if the person:

(a) without consent from the owner of the agricultural operation, or the owner's agent, knowingly or intentionally records an image of, or sound from, the agricultural operation by leaving a recording device on the agricultural operation;

(b) obtains access to an agricultural operation under false pretenses;

(c) (i) applies for employment at an agricultural operation with the intent to record an image of, or sound from, the agricultural operation;

(ii) knows, at the time that the person accepts employment at the agricultural operation, that the owner of the agricultural operation prohibits the employee from recording an image of, or sound from, the agricultural operation; and

(iii) while employed at, and while present on, the agricultural operation, records an image of, or sound from, the agricultural operation; or

(d) without consent from the owner of the operation or the owner's agent, knowingly or intentionally records an image of, or sound from, an agricultural operation while the person is committing criminal trespass, as described in Section 76-6-206, on the agricultural operation.

(3) A person who commits agricultural operation interference described in Subsection (2)(a) is guilty of a class A misdemeanor.

(4) A person who commits agricultural operation interference described in Subsection (2)(b), (c), or (d) is guilty of a class B misdemeanor.

Enacted by Chapter 213, 2012 General Session

76-6-201. Definitions.

As used in this part:

(1) (a) "Building," in addition to its ordinary meaning, means any watercraft, aircraft, trailer, or other structure or vehicle adapted for overnight accommodation of persons or for carrying on business and includes:

- (i) each separately secured or occupied portion of the structure or vehicle; and
- (ii) each structure appurtenant to or connected with the structure or vehicle.

(b) "Building" does not include a railroad car.

(2) "Dwelling" means a building which is usually occupied by a person lodging in the building at night, whether or not a person is actually present.

(3) "Enter or remain unlawfully" means a person enters or remains in or on any premises when:

(a) at the time of the entry or remaining, the premises or any portion of the premises are not open to the public; and

(b) the actor is not otherwise licensed or privileged to enter or remain on the premises or any portion of the premises.

(4) "Enter" means:

(a) intrusion of any part of the body; or

(b) intrusion of any physical object under control of the actor.

(5) "Railroad car":

(a) in addition to its ordinary meaning, includes a sleeping car or any container or trailer that is on a railroad car; and

(b) includes only a railroad car that is operable and part of an ongoing railroad operation.

Amended by Chapter 366, 2008 General Session

76-6-202. Burglary.

(1) An actor is guilty of burglary who enters or remains unlawfully in a building or any portion of a building with intent to commit:

(a) a felony;

(b) theft;

- (c) an assault on any person;
- (d) lewdness, a violation of Section 76-9-702;
- (e) sexual battery, a violation of Section 76-9-702.1;
- (f) lewdness involving a child, in violation of Section 76-9-702.5; or
- (g) voyeurism under Section 76-9-702.7.

(2) Burglary is a third degree felony unless it was committed in a dwelling, in which event it is a second degree felony.

(3) A violation of this section is a separate offense from any of the offenses listed in Subsections (1)(a) through (g), and which may be committed by the actor while in the building.

Amended by Chapter 303, 2012 General Session

76-6-203. Aggravated burglary.

(1) A person is guilty of aggravated burglary if in attempting, committing, or fleeing from a burglary the actor or another participant in the crime:

- (a) causes bodily injury to any person who is not a participant in the crime;
- (b) uses or threatens the immediate use of a dangerous weapon against any person who is not a participant in the crime; or
- (c) possesses or attempts to use any explosive or dangerous weapon.

(2) Aggravated burglary is a first degree felony.

(3) As used in this section, "dangerous weapon" has the same definition as under Section 76-1-601.

Amended by Chapter 170, 1989 General Session

76-6-204. Burglary of a vehicle -- Charge of other offense.

(1) Any person who unlawfully enters any vehicle with intent to commit a felony or theft is guilty of a burglary of a vehicle.

(2) Burglary of a vehicle is a class A misdemeanor.

(3) A charge against any person for a violation of Subsection (1) shall not preclude a charge for a commission of any other offense.

Enacted by Chapter 196, 1973 General Session

76-6-204.5. Burglary of a railroad car -- Charge of other offenses.

(1) Any person commits burglary of a railroad car when the person breaks the lock or seal on any railroad car, with the intent to commit a felony or theft.

(2) Burglary of a railroad car is a third degree felony.

(3) Charging a person for a violation of Subsection (1) does not preclude charging the person for any other offense.

Enacted by Chapter 366, 2008 General Session

76-6-205. Manufacture or possession of instrument for burglary or theft.

Any person who manufactures or possesses any instrument, tool, device, article, or other thing adapted, designed, or commonly used in advancing or facilitating the commission of any offense under circumstances manifesting an intent to use or knowledge that some person intends to use the same in the commission of a burglary or theft is guilty of a class B misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-6-206. Criminal trespass.

- (1) As used in this section, "enter" means intrusion of the entire body.
- (2) A person is guilty of criminal trespass if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section 76-10-2402 regarding commercial obstruction:
 - (a) the person enters or remains unlawfully on property and:
 - (i) intends to cause annoyance or injury to any person or damage to any property, including the use of graffiti as defined in Section 76-6-107;
 - (ii) intends to commit any crime, other than theft or a felony; or
 - (iii) is reckless as to whether his presence will cause fear for the safety of another;
 - (b) knowing the person's entry or presence is unlawful, the person enters or remains on property as to which notice against entering is given by:
 - (i) personal communication to the actor by the owner or someone with apparent authority to act for the owner;
 - (ii) fencing or other enclosure obviously designed to exclude intruders; or
 - (iii) posting of signs reasonably likely to come to the attention of intruders; or
 - (c) the person enters a condominium unit in violation of Subsection 57-8-7(8).
- (3) (a) A violation of Subsection (2)(a) or (b) is a class B misdemeanor unless it was committed in a dwelling, in which event it is a class A misdemeanor.
- (b) A violation of Subsection (2)(c) is an infraction.
- (4) It is a defense to prosecution under this section that:
 - (a) the property was open to the public when the actor entered or remained; and
 - (b) the actor's conduct did not substantially interfere with the owner's use of the property.

Amended by Chapter 152, 2013 General Session

76-6-206.1. Criminal trespass of abandoned or inactive mines -- Penalty.

- (1) For purposes of this section:
 - (a) "Abandoned or inactive mine" means an underground mine which is no longer open for access or no longer under excavation and has been clearly marked as closed or protected from entry.
 - (b) "Enter" means intrusion of the entire body.
- (2) A person is guilty of criminal trespass of an abandoned or inactive mine if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204:

(a) the person intentionally enters and remains unlawfully in the underground workings of an abandoned or inactive mine; or

(b) intentionally and without authority removes, destroys, or tampers with any warning sign, covering, fencing, or other method of protection from entry placed on, around, or over any mine shaft, mine portal, or other abandoned or inactive mining excavation property.

(3) A violation of Subsection (2)(a) is a class B misdemeanor.

(4) A violation of Subsection (2)(b) is a class A misdemeanor.

Enacted by Chapter 223, 1997 General Session

76-6-206.2. Criminal trespass on state park lands -- Penalties.

(1) For purposes of this section:

(a) "Authorization" means specific written permission by, or contractual agreement with, the Division of Parks and Recreation.

(b) "Criminal trespass" means the elements of the crime of criminal trespass, as set forth in Section 76-6-206.

(c) "Division" means the Division of Parks and Recreation, created in Section 79-4-201.

(d) "State park lands" means all lands administered by the division.

(2) A person is guilty of criminal trespass on state park lands and is liable for the civil damages prescribed in Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization, the person:

(a) constructs improvements or structures on state park lands;

(b) uses or occupies state park lands for more than 30 days after the cancellation or expiration of authorization;

(c) knowingly or intentionally uses state park lands for commercial gain;

(d) intentionally or knowingly grazes livestock on state park lands, except as provided in Section 72-3-112; or

(e) remains, after being ordered to leave by someone with actual authority to act for the division, or by a law enforcement officer.

(3) A person is not guilty of criminal trespass if that person enters onto state park lands:

(a) without first paying the required fee; and

(b) for the sole purpose of pursuing recreational activity.

(4) A violation of Subsection (2) is a class B misdemeanor.

(5) In addition to restitution, as provided in Section 76-3-201, a person who commits any act described in Subsection (2) may also be liable for civil damages in the amount of three times the value of:

(a) damages resulting from a violation of Subsection (2);

(b) the water, mineral, vegetation, improvement, or structure on state park lands that is removed, destroyed, used, or consumed without authorization;

(c) the historical, prehistorical, archaeological, or paleontological resource on state park lands that is removed, destroyed, used, or consumed without authorization; or

(d) the consideration which would have been charged by the division for unauthorized use of the land and resources during the period of trespass.

(6) Civil damages under Subsection (5) may be collected in a separate action by the division, and shall be deposited in the State Parks Fees Restricted Account as established in Section 79-4-402.

Amended by Chapter 344, 2009 General Session

76-6-206.3. Criminal trespass on agricultural land or range land.

(1) As used in this section:

(a) "Agricultural or range land" and "land" mean land as defined under Subsections (1)(d) and (e).

(b) "Authorization" means specific written permission by, or contractual agreement with, the owner or manager of the property.

(c) "Criminal trespass" means the elements of the crime of criminal trespass under Section 76-6-206.

(d) "Land in agricultural use" has the same meaning as in Section 59-2-502.

(e) "Range land" means privately owned land that is not fenced or divided into lots and that is generally unimproved. This land includes land used for livestock.

(2) A person is guilty of the class B misdemeanor criminal offense of criminal trespass on agricultural or range land and is liable for the civil damages under Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization or a right under state law, the person enters or remains on agricultural or range land regarding which notice prohibiting entry is given by:

(a) personal communication to the person by the owner of the land, an employee of the owner, or a person with apparent authority to act for the owner;

(b) fencing or other form of enclosure a reasonable person would recognize as intended to exclude intruders; or

(c) posted signs or markers that would reasonably be expected to be seen by persons in the area of the borders of the land.

(3) A person is guilty of the class B misdemeanor criminal offense of cutting, destroying, or rendering ineffective the fencing of agricultural or range land if the person willfully cuts, destroys, or renders ineffective any fencing as described under Subsection (2)(b).

(4) In addition to restitution, as provided in Section 76-3-201, a person who commits any violation of Subsection (2) or (3) may also be liable for:

(a) statutory damages in the amount of the value of damages resulting from the violation of Subsection (2) or \$500, whichever is greater; and

(b) reasonable attorney fees not to exceed \$250, and court costs.

(5) Civil damages under Subsection (4) may be collected in a separate action by the owner of the agricultural or range land or the owner's assignee.

Enacted by Chapter 270, 2009 General Session

76-6-301. Robbery.

- (1) A person commits robbery if:
 - (a) the person unlawfully and intentionally takes or attempts to take personal property in the possession of another from his person, or immediate presence, against his will, by means of force or fear, and with a purpose or intent to deprive the person permanently or temporarily of the personal property; or
 - (b) the person intentionally or knowingly uses force or fear of immediate force against another in the course of committing a theft or wrongful appropriation.
- (2) An act is considered to be "in the course of committing a theft or wrongful appropriation" if it occurs:
 - (a) in the course of an attempt to commit theft or wrongful appropriation;
 - (b) in the commission of theft or wrongful appropriation; or
 - (c) in the immediate flight after the attempt or commission.
- (3) Robbery is a felony of the second degree.

Amended by Chapter 112, 2004 General Session

76-6-302. Aggravated robbery.

- (1) A person commits aggravated robbery if in the course of committing robbery, he:
 - (a) uses or threatens to use a dangerous weapon as defined in Section 76-1-601;
 - (b) causes serious bodily injury upon another; or
 - (c) takes or attempts to take an operable motor vehicle.
- (2) Aggravated robbery is a first degree felony.
- (3) For the purposes of this part, an act shall be considered to be "in the course of committing a robbery" if it occurs in an attempt to commit, during the commission of, or in the immediate flight after the attempt or commission of a robbery.

Amended by Chapter 62, 2003 General Session

76-6-401. Definitions.

For the purposes of this part:

- (1) "Property" means anything of value, including real estate, tangible and intangible personal property, captured or domestic animals and birds, written instruments or other writings representing or embodying rights concerning real or personal property, labor, services, or otherwise containing anything of value to the owner, commodities of a public utility nature such as telecommunications, gas, electricity, steam, or water, and trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula or invention which the owner thereof intends to be available only to persons selected by him.
- (2) "Obtain" means, in relation to property, to bring about a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; in relation to labor or services, to secure performance thereof; and in relation to a trade secret, to make any facsimile, replica, photograph, or other reproduction.

- (3) "Purpose to deprive" means to have the conscious object:
 - (a) To withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or of the use and benefit thereof, would be lost; or
 - (b) To restore the property only upon payment of a reward or other compensation; or
 - (c) To dispose of the property under circumstances that make it unlikely that the owner will recover it.
- (4) "Obtain or exercise unauthorized control" means, but is not necessarily limited to, conduct heretofore defined or known as common-law larceny by trespassory taking, larceny by conversion, larceny by bailee, and embezzlement.
- (5) "Deception" occurs when a person intentionally:
 - (a) Creates or confirms by words or conduct an impression of law or fact that is false and that the actor does not believe to be true and that is likely to affect the judgment of another in the transaction; or
 - (b) Fails to correct a false impression of law or fact that the actor previously created or confirmed by words or conduct that is likely to affect the judgment of another and that the actor does not now believe to be true; or
 - (c) Prevents another from acquiring information likely to affect his judgment in the transaction; or
 - (d) Sells or otherwise transfers or encumbers property without disclosing a lien, security interest, adverse claim, or other legal impediment to the enjoyment of the property, whether the lien, security interest, claim, or impediment is or is not valid or is or is not a matter of official record; or
 - (e) Promises performance that is likely to affect the judgment of another in the transaction, which performance the actor does not intend to perform or knows will not be performed; provided, however, that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.

Enacted by Chapter 196, 1973 General Session

76-6-402. Presumptions and defenses.

The following presumption shall be applicable to this part:

- (1) Possession of property recently stolen, when no satisfactory explanation of such possession is made, shall be deemed prima facie evidence that the person in possession stole the property.
- (2) It is no defense under this part that the actor has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, provided an interest in property for purposes of this subsection shall not include a security interest for the repayment of a debt or obligation.
- (3) It is a defense under this part that the actor:
 - (a) Acted under an honest claim of right to the property or service involved; or
 - (b) Acted in the honest belief that he had the right to obtain or exercise control over the property or service as he did; or

(c) Obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented.

Amended by Chapter 32, 1974 General Session

76-6-402.5. Defense regarding metal dealers.

It is a defense against a charge of theft under this part and a defense against a civil claim for conversion if any dealer as defined in Section 76-6-1402 has acted in compliance with Title 76, Chapter 6, Part 14, Regulation of Metal Dealers.

Amended by Chapter 187, 2013 General Session

76-6-403. Theft -- Evidence to support accusation.

Conduct denominated theft in this part constitutes a single offense embracing the separate offenses such as those heretofore known as larceny, larceny by trick, larceny by bailees, embezzlement, false pretense, extortion, blackmail, receiving stolen property. An accusation of theft may be supported by evidence that it was committed in any manner specified in Sections 76-6-404 through 76-6-410, subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

Amended by Chapter 32, 1974 General Session

76-6-404. Theft -- Elements.

A person commits theft if he obtains or exercises unauthorized control over the property of another with a purpose to deprive him thereof.

Enacted by Chapter 196, 1973 General Session

76-6-404.5. Wrongful appropriation -- Penalties.

(1) A person commits wrongful appropriation if he obtains or exercises unauthorized control over the property of another, without the consent of the owner or legal custodian and with intent to temporarily appropriate, possess, or use the property or to temporarily deprive the owner or legal custodian of possession of the property.

(2) The consent of the owner or legal custodian of the property to its control by the actor is not presumed or implied because of the owner's or legal custodian's consent on a previous occasion to the control of the property by any person.

(3) Wrongful appropriation is punishable one degree lower than theft, as provided in Section 76-6-412, so that a violation which would have been:

(a) a second degree felony under Section 76-6-412 if it had been theft is a third degree felony if it is wrongful appropriation;

(b) a third degree felony under Section 76-6-412 if it had been theft is a class A misdemeanor if it is wrongful appropriation;

(c) a class A misdemeanor under Section 76-6-412 if it had been theft is a class

B misdemeanor if it is wrongful appropriation; and

(d) a class B misdemeanor under Section 76-6-412 if it had been theft is a class C misdemeanor if it is wrongful appropriation.

(4) Wrongful appropriation is a lesser included offense of the offense of theft under Section 76-6-404.

Amended by Chapter 48, 2001 General Session

76-6-404.7. Theft of motor vehicle fuel.

(1) As used in this section, "motor vehicle fuel" means any combustible gas, liquid, matter, or substance that is used in an internal combustion engine for the generation of power.

(2) A person is guilty of theft of motor vehicle fuel who:

(a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for retail sale when motor fuel has been dispensed into:

(i) the fuel tank of the motor vehicle; or

(ii) any other container that is then removed from the premises by means of the motor vehicle; and

(b) commits the act under Subsection (2)(a) with the intent to deprive the owner or operator of the premises of the motor fuel without making full payment for the fuel.

(3) In addition to the penalties for theft under Section 76-6-412, the sentencing court may order the suspension of the driver license of a person convicted of theft of motor vehicle fuel. The suspension may not be for more than 90 days as provided in Section 53-3-220.

Enacted by Chapter 328, 2009 General Session

76-6-405. Theft by deception.

(1) As used in this section, "puffing" means an exaggerated commendation of wares or worth in a communication addressed to an individual, group, or the public.

(2) (a) A person commits theft if the person obtains or exercises control over property of another person:

(i) by deception; and

(ii) with a purpose to deprive the other person of property.

(b) The deception described in Subsection (2)(a)(i) and the deprivation described in Subsection (2)(a)(ii) may occur at separate times.

(3) Theft by deception does not occur when there is only:

(a) falsity as to matters having no pecuniary significance; or

(b) puffing by statements unlikely to deceive an ordinary person in the group addressed.

Amended by Chapter 156, 2012 General Session

76-6-406. Theft by extortion.

(1) A person is guilty of theft if he obtains or exercises control over the property

of another by extortion and with a purpose to deprive him thereof.

(2) As used in this section, extortion occurs when a person threatens to:

(a) Cause physical harm in the future to the person threatened or to any other person or to property at any time; or

(b) Subject the person threatened or any other person to physical confinement or restraint; or

(c) Engage in other conduct constituting a crime; or

(d) Accuse any person of a crime or expose him to hatred, contempt, or ridicule;

or

(e) Reveal any information sought to be concealed by the person threatened; or

(f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(g) Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or

(h) Bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

(i) Do any other act which would not in itself substantially benefit him but which would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships.

Enacted by Chapter 196, 1973 General Session

76-6-407. Theft of lost, mislaid, or mistakenly delivered property.

A person commits theft when:

(1) He obtains property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, without taking reasonable measures to return it to the owner; and

(2) He has the purpose to deprive the owner of the property when he obtains the property or at any time prior to taking the measures designated in paragraph (1).

Enacted by Chapter 196, 1973 General Session

76-6-408. Receiving stolen property -- Duties of pawnbrokers, secondhand businesses, and coin dealers.

(1) A person commits theft if he receives, retains, or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen, or who conceals, sells, withholds or aids in concealing, selling, or withholding the property from the owner, knowing the property to be stolen, intending to deprive the owner of it.

(2) The knowledge or belief required for Subsection (1) is presumed in the case of an actor who:

(a) is found in possession or control of other property stolen on a separate occasion;

(b) has received other stolen property within the year preceding the receiving offense charged;

(c) is a pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or an agent, employee, or representative of a pawnbroker or person who buys, receives, or obtains property and fails to require the seller or person delivering the property to:

(i) certify, in writing, that he has the legal rights to sell the property;

(ii) provide a legible print, preferably the right thumb, at the bottom of the certificate next to his signature; and

(iii) provide at least one positive form of identification; or

(d) is a coin dealer or an employee of the coin dealer as defined in Section 13-32a-102 who does not comply with the requirements of Section 13-32a-104.5.

(3) Every pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee, or representative of a pawnbroker or person who fails to comply with the requirements of Subsection (2)(c) is presumed to have bought, received, or obtained the property knowing it to have been stolen or unlawfully obtained. This presumption may be rebutted by proof.

(4) When, in a prosecution under this section, it appears from the evidence that the defendant was a pawnbroker or a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or was an agent, employee, or representative of a pawnbroker or person, that the defendant bought, received, concealed, or withheld the property without obtaining the information required in Subsection (2)(c) or (2)(d), then the burden shall be upon the defendant to show that the property bought, received, or obtained was not stolen.

(5) Subsections (2)(c), (3), and (4) do not apply to scrap metal processors as defined in Section 76-6-1402.

(6) As used in this section:

(a) "Dealer" means a person in the business of buying or selling goods.

(b) "Pawnbroker" means a person who:

(i) loans money on deposit of personal property, or deals in the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledge or depositor;

(ii) loans or advances money on personal property by taking chattel mortgage security on the property and takes or receives the personal property into his possession and who sells the unredeemed pledges; or

(iii) receives personal property in exchange for money or in trade for other personal property.

(c) "Receives" means acquiring possession, control, or title or lending on the security of the property.

Amended by Chapter 187, 2013 General Session

76-6-409. Theft of services.

(1) A person commits theft if he obtains services which he knows are available

only for compensation by deception, threat, force, or any other means designed to avoid the due payment for them.

(2) A person commits theft if, having control over the disposition of services of another, to which he knows he is not entitled, he diverts the services to his own benefit or to the benefit of another who he knows is not entitled to them.

(3) In this section "services" includes, but is not limited to, labor, professional service, public utility and transportation services, restaurant, hotel, motel, tourist cabin, rooming house, and like accommodations, the supplying of equipment, tools, vehicles, or trailers for temporary use, telephone or telegraph service, steam, admission to entertainment, exhibitions, sporting events, or other events for which a charge is made.

(4) Under this section "services" includes gas, electricity, water, sewer, or cable television services, only if the services are obtained by threat, force, or a form of deception not described in Section 76-6-409.3.

(5) Under this section "services" includes telephone services only if the services are obtained by threat, force, or a form of deception not described in Sections 76-6-409.5 through 76-6-409.9.

Amended by Chapter 215, 1994 General Session

76-6-409.1. Devices for theft of services -- Seizure and destruction -- Civil actions for damages.

(1) A person may not knowingly:

(a) make or possess any instrument, apparatus, equipment, or device for the use of, or for the purpose of, committing or attempting to commit theft under Section 76-6-409 or 76-6-409.3; or

(b) sell, offer to sell, advertise, give, transport, or otherwise transfer to another any information, instrument, apparatus, equipment, or device, or any information, plan, or instruction for obtaining, making, or assembling the same, with intent that it be used, or caused to be used, to commit or attempt to commit theft under Section 76-6-409 or 76-6-409.3.

(2) (a) Any information, instrument, apparatus, equipment, or device, or information, plan, or instruction referred to in Subsection (1) may be seized pursuant to a court order, lawful search and seizure, lawful arrest, or other lawful process.

(b) Upon the conviction of any person for a violation of any provision of this section, any information, instrument, apparatus, equipment, device, plan, or instruction shall be destroyed as contraband by the sheriff of the county in which the person was convicted.

(3) A person who violates any provision of Subsection (1) or (2) is guilty of a class A misdemeanor.

(4) Criminal prosecutions under this section do not affect any person's right of civil action for redress for damages suffered as a result of any violation of this section.

Amended by Chapter 38, 1987 General Session

76-6-409.3. Theft of utility or cable television services -- Restitution -- Civil

action for damages.

(1) As used in this section:

(a) "Cable television service" means any audio, video, or data service provided by a cable television company over its cable system facilities for payment, but does not include the use of a satellite dish or antenna.

(b) "Owner" includes any part-owner, joint owner, tenant in common, joint tenant, or tenant by the entirety of the whole or a part of any building and the property on which it is located.

(c) "Person" means any individual, firm, partnership, corporation, company, association, or other legal entity.

(d) "Tenant or occupant" includes any person, including the owner, who occupies the whole or part of any building, whether alone or with others.

(e) "Utility" means any public utility, municipally-owned utility, or cooperative utility which provides electricity, gas, water, or sewer, or any combination of them, for sale to consumers.

(2) A person is guilty of theft of a utility or cable television service if the person commits any prohibited acts which make gas, electricity, water, sewer, or cable television available to a tenant or occupant, including himself, with intent to avoid due payment to the utility or cable television company. Any person aiding and abetting in these prohibited acts is a party to the offense under Section 76-2-202. Prohibited acts include:

(a) connecting any tube, pipe, wire, cable, or other instrument with any meter, device, or other instrument used for conducting gas, electricity, water, sewer, or cable television in a manner as permits the use of the gas, electricity, water, sewer, or cable television without its passing through a meter or other instrument recording the usage for billing;

(b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or other instrument used for measuring quantities of gas, electricity, water, or sewer service, or making or maintaining any modification or alteration to any device installed with the authorization of a cable television company for the purpose of intercepting or receiving any program or other service carried by the company which the person is not authorized by the company to receive;

(c) reconnecting gas, electricity, water, sewer, or cable television connections or otherwise restoring service when one or more of those utilities or cable service have been lawfully disconnected or turned off by the provider of the utility or cable service;

(d) intentionally breaking, defacing, or causing to be broken or defaced any seal, locking device, or other part of a metering device for recording usage of gas, electricity, water, or sewer service, or a security system for the recording device, or a cable television control device;

(e) removing a metering device designed to measure quantities of gas, electricity, water, or sewer service;

(f) transferring from one location to another a metering device for measuring quantities of public utility services of gas, electricity, water, or sewer service;

(g) changing the indicated consumption, jamming the measuring device, bypassing the meter or measuring device with a jumper so that it does not indicate use

or registers use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer service from the utility without their passing through a metering device for measuring quantities of consumption for billing purposes;

(h) using a metering device belonging to the utility that has not been assigned to the location and installed by the utility;

(i) fabricating or using a device to pick or otherwise tamper with the locks used to deter utility service diversion, meter tampering, meter thefts, and unauthorized cable television service;

(j) assisting or instructing any person in obtaining or attempting to obtain any cable television service without payment of all lawful compensation to the company providing the service;

(k) making or maintaining a connection or connections, whether physical, electrical, mechanical, acoustical, or by other means, with any cables, wires, components, or other devices used for the distribution of cable television services without authority from the cable television company; or

(l) possessing without authority any device or printed circuit board designed in whole or in part to receive any cable television programming or services offered for sale over a cable television system with the intent that the device or printed circuit be used for the reception of the cable television company's services without payment. For purposes of this subsection, device or printed circuit board does not include the use of a satellite dish or antenna.

(3) The presence on property in the possession of a person of any device or alteration which permits the diversion or use of utility or cable service to avoid the registration of the use by or on a meter installed by the utility or to otherwise avoid the recording of use of the service for payment or otherwise avoid payment gives rise to an inference that the person in possession of the property installed the device or caused the alteration if:

(a) the presence of the device or alteration can be attributed only to a deliberate act in furtherance of an intent to avoid payment for utility or cable television service; and

(b) the person charged has received the direct benefit of the reduction of the cost of the utility or cable television service.

(4) A person who violates this section is guilty of the offense of theft of utility or cable television service.

(a) In the case of theft of utility services, if the value of the gas, electricity, water, or sewer service:

(i) is less than \$500, the offense is a class B misdemeanor;

(ii) is or exceeds \$500 but is not more than \$1,500, the offense is a class A misdemeanor;

(iii) is or exceeds \$1,500 but is not more than \$5,000, the offense is a third degree felony; and

(iv) is or exceeds \$5,000 or if the offender has previously been convicted of a violation of this section, the offense is a second degree felony.

(b) In the case of theft of cable television services, the penalties are prescribed in Section 76-6-412.

(5) A person who violates this section shall make restitution to the utility or cable television company for the value of the gas, electricity, water, sewer, or cable television service consumed in violation of this section plus all reasonable expenses and costs incurred on account of the violation of this section. Reasonable expenses and costs include expenses and costs for investigation, disconnection, reconnection, service calls, employee time, and equipment use.

(6) Criminal prosecution under this section does not affect the right of a utility or cable television company to bring a civil action for redress for damages suffered as a result of the commission of any of the acts prohibited by this section.

(7) This section does not abridge or alter any other right, action, or remedy otherwise available to a utility or cable television company.

Amended by Chapter 193, 2010 General Session

76-6-409.5. Definitions.

As used in this section and Sections 76-6-409.6 through 76-6-409.10:

(1) "Access device" means any telecommunication device including the telephone calling card number, electronic serial number, account number, mobile identification number, or personal identification number that can be used to obtain telephone service.

(2) "Clone cellular telephone" or "counterfeit cellular telephone" means a cellular telephone whose electronic serial number has been altered from the electronic serial number that was programmed in the telephone by the manufacturer by someone other than the manufacturer.

(3) "Cloning paraphernalia" means materials that, when possessed in combination, are capable of the creation of a cloned cellular telephone. These materials include scanners to intercept the electronic serial number and mobile identification number, cellular telephones, cables, EPROM chips, EPROM burners, software for programming the cloned telephone with a false electronic serial number and mobile identification number combination, a computer containing such software, and lists of electronic serial number and mobile identification number combinations.

(4) "Electronic serial number" means the unique number that:

(a) was programmed into a cellular telephone by its manufacturer;
(b) is transmitted by the cellular telephone; and
(c) is used by cellular telephone providers to validate radio transmissions to the system as having been made by an authorized device.

(5) "EPROM" or "Erasable programmable read-only memory" means an integrated circuit memory that can be programmed from an external source and erased, for reprogramming, by exposure to ultraviolet light.

(6) "Intercept" means to electronically capture, record, reveal, or otherwise access, the signals emitted or received during the operation of a cellular telephone without the consent of the sender or receiver, by means of any instrument, device or equipment.

(7) "Manufacture of an unlawful telecommunication device" means to produce or assemble an unlawful telecommunication device, or to modify, alter, program, or

reprogram a telecommunication device to be capable of acquiring or facilitating the acquisition of telecommunication service without the consent of the telecommunication service provider.

(8) "Mobile identification number" means the cellular telephone number assigned to the cellular telephone by the cellular telephone carrier.

(9) "Possess" means to have physical possession or otherwise to exercise control over tangible property.

(10) "Sell" means to offer to, agree to offer to, or to sell, exchange, give, or dispose of an unlawful telecommunications device to another.

(11) "Telecommunication device" means:

(a) any type of instrument, device, machine, or equipment which is capable of transmitting or receiving telephonic, electronic, or radio communications; or

(b) any part of an instrument, device, machine, or equipment, or other computer circuit, computer chip, electronic mechanism, or other component, which is capable of facilitating the transmission or reception of telephonic or electronic communications within the radio spectrum allocated to cellular radio telephony.

(12) "Telecommunication service" includes any service provided for a charge or compensation to facilitate the origination, transmission, emission, or reception of signs, signals, writings, images, and sounds or intelligence of any nature by telephone, including cellular telephones, wire, radio, television optical or other electromagnetic system.

(13) "Telecommunication service provider" means any person or entity providing telecommunication service including a cellular telephone or paging company or other person or entity which, for a fee, supplies the facility, cell site, mobile telephone switching office, or other equipment or telecommunication service.

(14) "Unlawful telecommunication device" means any telecommunication device that is capable of, or has been altered, modified, programmed, or reprogrammed, alone or in conjunction with another access device, so as to be capable of, acquiring or facilitating the acquisition of a telecommunication service without the consent of the telecommunication service provider. Unlawful devices include tumbler phones, counterfeit phones, tumbler microchips, counterfeit microchips, and other instruments capable of disguising their identity or location or of gaining access to a communications system operated by a telecommunication service provider.

Amended by Chapter 78, 1997 General Session

76-6-409.6. Use of telecommunication device to avoid lawful charge for service -- Penalty.

(1) Any person who uses a telecommunication device with the intent to avoid the payment of any lawful charge for telecommunication service or with the knowledge that it was to avoid the payment of any lawful charge for telecommunication service is guilty of:

(a) a class B misdemeanor, if the value of the telecommunication service is less than \$300 or cannot be ascertained;

(b) a class A misdemeanor, if the value of the telecommunication service charge

is or exceeds \$300 but is not more than \$1,000;

(c) a third degree felony, if the value of the telecommunication service is or exceeds \$1,000 but is not more than \$5,000;

(d) a second degree felony, if:

(i) the value of the telecommunication service is or exceeds \$5,000; or

(ii) the cloned cellular telephone was used to facilitate the commission of a felony.

(2) Any person who has been convicted previously of an offense under this section is guilty of a second degree felony upon a second conviction and any subsequent conviction.

Amended by Chapter 78, 1997 General Session

76-6-409.7. Possession of any unlawful telecommunication device -- Penalty.

(1) Any person who knowingly possesses an unlawful telecommunication device is guilty of a class B misdemeanor.

(2) Any person who knowingly possesses five or more unlawful telecommunication devices in the same criminal episode is guilty of a third degree felony.

(3) Any person is guilty of a second degree felony who:

(a) knowingly and unlawfully possesses an instrument capable of intercepting electronic serial number and mobile identification number combinations under circumstances evidencing an intent to clone; or

(b) knowingly and unlawfully possesses cloning paraphernalia under circumstances evidencing an intent to clone.

Amended by Chapter 78, 1997 General Session

76-6-409.8. Sale of an unlawful telecommunication device -- Penalty.

(1) Any person is guilty of a third degree felony who intentionally sells an unlawful telecommunication device or material, including hardware, data, computer software, or other information or equipment, knowing that the purchaser or a third person intends to use such material in the manufacture of an unlawful telecommunication device.

(2) If the offense under this section involves the intentional sale of five or more unlawful telecommunication devices within a six-month period, the person committing the offense is guilty of a second degree felony.

Amended by Chapter 78, 1997 General Session

76-6-409.9. Manufacture of an unlawful telecommunication device -- Penalty.

(1) Any person who intentionally manufactures an unlawful telecommunication device is guilty of a third degree felony.

(2) If the offense under this section involves the intentional manufacture of five or more unlawful telecommunication devices within a six-month period, the person committing the offense is guilty of a second degree felony.

Amended by Chapter 78, 1997 General Session

76-6-409.10. Payment of restitution -- Civil action -- Other remedies retained.

(1) A person who violates Sections 76-6-409.5 through 76-6-409.9 shall make restitution to the telecommunication service provider for the value of the telecommunication service consumed in violation of this section plus all reasonable expenses and costs incurred on account of the violation of this section. Reasonable expenses and costs include expenses and costs for investigation, service calls, employee time, and equipment use.

(2) Criminal prosecution under this section does not affect the right of a telecommunication service provider to bring a civil action for redress for damages suffered as a result of the commission of any of the acts prohibited by this section.

(3) This section does not abridge or alter any other right, action, or remedy otherwise available to a telecommunication service provider.

Amended by Chapter 79, 1996 General Session

76-6-410. Theft by person having custody of property pursuant to repair or rental agreement.

A person is guilty of theft if:

(1) Having custody of property pursuant to an agreement between himself or another and the owner thereof whereby the actor or another is to perform for compensation a specific service for the owner involving the maintenance, repair, or use of such property, he intentionally uses or operates it, without the consent of the owner, for his own purposes in a manner constituting a gross deviation from the agreed purpose; or

(2) Having custody of any property pursuant to a rental or lease agreement where it is to be returned in a specified manner or at a specified time, intentionally fails to comply with the terms of the agreement concerning return so as to render such failure a gross deviation from the agreement.

Enacted by Chapter 196, 1973 General Session

76-6-410.5. Theft of a rental vehicle.

(1) As used in this section:

(a) "Motor vehicle" means a self-propelled vehicle that is intended primarily for use and operation on the highways.

(b) "Rental agreement" means any written agreement stating the terms and conditions governing the use of a motor vehicle provided by a rental company.

(c) "Rental company" means any person or organization in the business of

providing motor vehicles to the public.

(d) "Renter" means any person or organization obtaining the use of a motor vehicle from a rental company under the terms of a rental agreement.

(2) A renter is guilty of theft of a rental vehicle if, without notice to and permission of the rental company, the renter knowingly fails without good cause to return the vehicle within 72 hours after the time established for the return in the rental agreement.

(3) If the motor vehicle is not rented on a periodic tenancy basis, the rental company shall include the following information, legibly written, as part of the terms of the rental agreement:

(a) the date and time the motor vehicle is required to be returned; and

(b) the maximum penalties under state law if the motor vehicle is not returned within 72 hours from the date and time stated in compliance with Subsection (3)(a).

Enacted by Chapter 112, 2001 General Session

76-6-412. Theft -- Classification of offenses -- Action for treble damages.

(1) Theft of property and services as provided in this chapter is punishable:

(a) as a second degree felony if the:

(i) value of the property or services is or exceeds \$5,000;

(ii) property stolen is a firearm or an operable motor vehicle;

(iii) actor is armed with a dangerous weapon, as defined in Section 76-1-601, at the time of the theft; or

(iv) property is stolen from the person of another;

(b) as a third degree felony if:

(i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;

(ii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Title 76, Chapter 6, Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);

(iii) in a case not amounting to a second degree felony, the property taken is a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes; or

(iv) (A) the value of property or services is or exceeds \$500 but is less than \$1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Section 78B-3-108;

(v) the actor has been twice before convicted of any of the offenses listed in

Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based and the value of the property stolen is or exceeds \$500 but is less than \$1,500; or

(vi) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C);

(c) as a class A misdemeanor if:

(i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;

(ii) (A) the value of property or services is less than \$500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Section 78B-3-108; or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) as a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (1)(c).

(2) Any individual who violates Subsection 76-6-408(1) or Section 76-6-413, or commits theft of property described in Subsection 76-6-412(1)(b)(iii), is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Amended by Chapter 255, 2014 General Session

76-6-412.5. Property damage caused in the course of committing a theft.

If a defendant who commits or attempts to commit theft as defined in Section 76-6-404 of regulated metal as defined in Section 76-6-1402 and in the course of committing or attempting to commit the theft causes damage to any person's real or personal property other than the regulated metal, the defendant is liable for restitution for all costs incurred due to the damage to the person's property.

Amended by Chapter 187, 2013 General Session

76-6-413. Release of fur-bearing animals -- Penalty -- Finding.

(1) In any case not amounting to a felony of the second degree, any person who intentionally and without permission of the owner releases any fur-bearing animal raised for commercial purposes is guilty of a felony of the third degree.

(2) The Legislature finds that the release of fur-bearing animals raised for commercial purposes subjects the animals to unnecessary suffering through deprivation of food and shelter and compromises their genetic integrity, thereby permanently depriving the owner of substantial value.

Enacted by Chapter 119, 1997 General Session

76-6-501. Forgery and producing false identification -- Elements of offense -- Definitions.

(1) As used in this part:

(a) "Authentication feature" means any hologram, watermark, certification, symbol, code, image, sequence of numbers or letters, or other feature that either individually or in combination with another feature is used by the issuing authority on an identification document, document-making implement, or means of identification to determine if the document is counterfeit, altered, or otherwise falsified.

(b) "Document-making implement" means any implement, impression, template, computer file, computer disc, electronic device, computer hardware or software, or scanning, printing, or laminating equipment that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement.

(c) "False authentication feature" means an authentication feature that:

(i) is genuine in origin but that, without the authorization of the issuing authority, has been tampered with or altered for purposes of deceit;

(ii) is genuine, but has been distributed, or is intended for distribution, without the authorization of the issuing authority and not in connection with a lawfully made identification document, document-making implement, or means of identification to which the authentication feature is intended to be affixed or embedded by the issuing authority; or

(iii) appears to be genuine, but is not.

(d) "False identification document" means a document of a type intended or commonly accepted for the purposes of identification of individuals, and that:

(i) is not issued by or under the authority of a governmental entity or was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit; and

(ii) appears to be issued by or under the authority of a governmental entity.

(e) "Governmental entity" means the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization, or a quasi-governmental organization.

(f) "Identification document" means a document made or issued by or under the authority of a governmental entity, which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

(g) "Issuing authority" means:

(i) any governmental entity that is authorized to issue identification documents, means of identification, or authentication features; or

(ii) a business organization or financial institution or its agent that issues a financial transaction card as defined in Section 76-6-506.

(h) "Means of identification" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including:

(i) name, Social Security number, date of birth, government issued driver

license or identification number, alien registration number, government passport number, or employer or taxpayer identification number;

(ii) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation; or

(iii) unique electronic identification number, address, or routing code.

(i) "Personal identification card" means an identification document issued by a governmental entity solely for the purpose of identification of an individual.

(j) "Produce" includes altering, authenticating, or assembling.

(k) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States.

(l) "Traffic" means to:

(i) transport, transfer, or otherwise dispose of an item to another, as consideration for anything of value; or

(ii) make or obtain control of with intent to transport, transfer, or otherwise dispose of an item to another.

(m) "Writing" includes printing, electronic storage or transmission, or any other method of recording valuable information including forms such as:

(i) checks, tokens, stamps, seals, credit cards, badges, trademarks, money, and any other symbols of value, right, privilege, or identification;

(ii) a security, revenue stamp, or any other instrument or writing issued by a government or any agency; or

(iii) a check, an issue of stocks, bonds, or any other instrument or writing representing an interest in or claim against property, or a pecuniary interest in or claim against any person or enterprise.

(2) A person is guilty of forgery if, with purpose to defraud anyone, or with knowledge that the person is facilitating a fraud to be perpetrated by anyone, the person:

(a) alters any writing of another without his authority or utters the altered writing; or

(b) makes, completes, executes, authenticates, issues, transfers, publishes, or utters any writing so that the writing or the making, completion, execution, authentication, issuance, transference, publication, or utterance:

(i) purports to be the act of another, whether the person is existent or nonexistent;

(ii) purports to be an act on behalf of another party with the authority of that other party; or

(iii) purports to have been executed at a time or place or in a numbered sequence other than was in fact the case, or to be a copy of an original when an original did not exist.

(3) It is not a defense to a charge of forgery under Subsection (2)(b)(ii) if an actor signs his own name to the writing if the actor does not have authority to make, complete, execute, authenticate, issue, transfer, publish, or utter the writing on behalf of the party for whom the actor purports to act.

(4) A person is guilty of producing or transferring any false identification

document who:

(a) knowingly and without lawful authority produces, attempts, or conspires to produce an identification document, authentication feature, or a false identification document that is or appears to be issued by or under the authority of an issuing authority;

(b) transfers an identification document, authentication feature, or a false identification document knowing that the document or feature was stolen or produced without lawful authority;

(c) produces, transfers, or possesses a document-making implement or authentication feature with the intent that the document-making implement or the authentication feature be used in the production of a false identification document or another document-making implement or authentication feature; or

(d) traffics in false or actual authentication features for use in false identification documents, document-making implements, or means of identification.

(5) A person who violates:

(a) Subsection (2) is guilty of a third degree felony; and

(b) Subsection (4) is guilty of a second degree felony.

(6) This part may not be construed to impose criminal or civil liability on any law enforcement officer acting within the scope of a criminal investigation.

(7) The forfeiture of property under this part, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be conducted in accordance with Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act.

(8) The court shall order, in addition to the penalty prescribed for any person convicted of a violation of this section, the forfeiture and destruction or other disposition of all illicit authentication features, identification documents, false transaction cards, document-making implements, or means of identification.

Amended by Chapter 324, 2011 General Session

76-6-502. Possession of forged writing or device for writing -- Penalty.

Any person who, with intent to defraud, knowingly possesses any writing that is a forgery as defined in Section 76-6-501, or who with intent to defraud knowingly possesses any device for making any writing that is a forgery as defined in Section 76-6-501, is guilty of a third degree felony.

Amended by Chapter 56, 2001 General Session

76-6-503.5. Wrongful liens and fraudulent handling of recordable writings -- Penalties.

(1) "Lien" means:

(a) an instrument or document filed pursuant to Section 70A-9a-516;

(b) a nonconsensual common law document as defined in Section 38-9-102;

(c) a wrongful lien as defined in Section 38-9-102; or

(d) any instrument or document that creates or purports to create a lien or

encumbrance on an owner's interest in real or personal property or a claim on another's assets.

(2) A person is guilty of the crime of wrongful lien if that person knowingly makes, utters, records, or files a lien:

(a) having no objectively reasonable basis to believe he has a present and lawful property interest in the property or a claim on the assets; or

(b) if the person files the lien in violation of a civil wrongful lien injunction pursuant to Title 38, Chapter 9a, Wrongful Lien Injunctions.

(3) A violation of this section is a third degree felony unless the person has been previously convicted of an offense under this section, in which case the violation is a second degree felony.

(4) (a) Any person who with intent to deceive or injure anyone falsifies, destroys, removes, records, or conceals any will, deed, mortgage, security instrument, lien, or other writing for which the law provides public recording is guilty of fraudulent handling of recordable writings.

(b) A violation of Subsection (4)(a) is a third degree felony unless the person has been previously convicted of an offense under this section, in which case the violation is a second degree felony.

(5) This section does not prohibit prosecution for any act in violation of Section 76-8-414 or for any offense greater than an offense under this section.

Amended by Chapter 114, 2014 General Session

76-6-504. Tampering with records -- Penalty.

(1) Any person who, having no privilege to do so, knowingly falsifies, destroys, removes, or conceals any writing, other than the writings enumerated in Section 76-6-503.5 for which the law provides public recording or any record, public or private, with intent to deceive or injure any person or to conceal any wrongdoing is guilty of tampering with records.

(2) Tampering with records is a class B misdemeanor.

Amended by Chapter 93, 2005 General Session

76-6-505. Issuing a bad check or draft -- Presumption.

(1) (a) Any person who issues or passes a check or draft for the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value or paying for any services, wages, salary, labor, or rent, knowing it will not be paid by the drawee and payment is refused by the drawee, is guilty of issuing a bad check or draft.

(b) For purposes of this Subsection (1), a person who issues a check or draft for which payment is refused by the drawee is presumed to know the check or draft would not be paid if he had no account with the drawee at the time of issue.

(2) Any person who issues or passes a check or draft for the payment of money, for the purpose of obtaining from any person, firm, partnership, or corporation, any money, property, or other thing of value or paying for any services, wages, salary,

labor, or rent, payment of which check or draft is legally refused by the drawee, is guilty of issuing a bad check or draft if he fails to make good and actual payment to the payee in the amount of the refused check or draft within 14 days of his receiving actual notice of the check or draft's nonpayment.

(3) An offense of issuing a bad check or draft shall be punished as follows:

(a) If the check or draft or series of checks or drafts made or drawn in this state within a period not exceeding six months amounts to a sum that is less than \$500, the offense is a class B misdemeanor.

(b) If the check or draft or checks or drafts made or drawn in this state within a period not exceeding six months amounts to a sum that is or exceeds \$500 but is less than \$1,500, the offense is a class A misdemeanor.

(c) If the check or draft or checks or drafts made or drawn in this state within a period not exceeding six months amounts to a sum that is or exceeds \$1,500 but is less than \$5,000, the offense is a felony of the third degree.

(d) If the check or draft or checks or drafts made or drawn in this state within a period not exceeding six months amounts to a sum that is or exceeds \$5,000, the offense is a second degree felony.

Amended by Chapter 193, 2010 General Session

76-6-506. Financial transaction card offenses -- Definitions.

As used in this part:

(1) "Authorized credit card merchant" means a person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a financial transaction card by a card holder and to present valid credit card sales drafts to the issuer for payment.

(2) "Automated banking device" means any machine which, when properly activated by a financial transaction card or a personal identification code, may be used for any of the purposes for which a financial transaction card may be used.

(3) "Card holder" means any person or organization named on the face of a financial transaction card to whom or for whose benefit a financial transaction card is issued.

(4) "Credit card sales draft" means any sales slip, draft, or other written or electronic record of a sale of money, goods, services, or anything else of value made or purported to be made to or at the request of a card holder with a financial transaction card, financial transaction card credit number, or personal identification code, whether the record of the sale or purported sale is evidenced by a sales draft, voucher, or other similar document in writing or electronically recorded and transmitted.

(5) "Financial transaction card" means:

(a) any credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card, or any other card, issued by an issuer for the use of the card holder in obtaining money, goods, services, or anything else of value on credit, or in certifying or guaranteeing to a person or business the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of the person or

business; or

(b) any instrument or device used in providing the card holder access to a demand or time deposit account for the purpose of making deposits of money or checks in the account, or withdrawing funds from the account in the form of money, money orders, travelers' checks or other form representing value, or transferring funds from any demand or time deposit account to any credit card account in full or partial satisfaction of any outstanding balance existing in the credit card account.

(6) "Issuer" means a business organization or financial institution or its agent that issues a financial transaction card.

(7) "Personal identification code" means any numerical or alphabetical code assigned to a card holder by the issuer to permit the authorized electronic use of the holder's financial transaction card.

Amended by Chapter 254, 2010 General Session

76-6-506.2. Financial transaction card offenses -- Unlawful use of card -- False application for card.

It is unlawful for any person to:

(1) knowingly use a false, fictitious, altered, counterfeit, revoked, expired, stolen, or fraudulently obtained financial transaction card to obtain or attempt to obtain credit, goods, property, or services;

(2) knowingly, with the intent to defraud, use a financial transaction card, credit number, personal identification code, or any other information contained on the card or in the account from which the card is issued, to obtain or attempt to obtain credit, goods, or services;

(3) knowingly, with the intent to defraud, use a financial transaction card to willfully exceed an authorized credit line by \$500 or more, or by 50% or more of the line of credit, whichever is greater;

(4) (a) knowingly, with the intent to defraud, make application for a financial transaction card to an issuer and make or cause to be made a false statement or report of the person's name, occupation, financial condition, assets, or personal identifying information; or

(b) willfully and substantially undervalue or understate any indebtedness for the purposes of influencing the issuer to issue the financial transaction card; or

(5) knowingly, with the intent to defraud, present or cause to be presented to the issuer or an authorized credit card merchant, for payment or collection, any credit card sales draft, if:

(a) the draft is counterfeit or fictitious;

(b) the purported sales evidenced by any credit card sales draft did not take place;

(c) the purported sale was not authorized by the card holder; or

(d) the items or services purported to be sold as evidenced by the credit card sales drafts are not delivered or rendered to the card holder or person intended to receive them.

Amended by Chapter 166, 2009 General Session

76-6-506.3. Financial transaction card offenses -- Unlawful acquisition, possession, or transfer of card.

Any person is guilty of a third degree felony who:

(1) acquires a financial transaction card from another without the consent of the card holder or the issuer;

(2) receives a financial transaction card with intent to use it in violation of Section 76-6-506.2;

(3) sells or transfers a financial transaction card to another person with the knowledge that it will be used in violation of Section 76-6-506.2;

(4) (a) acquires a financial transaction card that the person knows was lost, mislaid, or delivered under a mistake as to the identity or address of the card holder; and

(b) (i) retains possession with intent to use it in violation of Section 76-6-506.2; or

(ii) sells or transfers a financial transaction card to another person with the knowledge that it will be used in violation of Section 76-6-506.2; or

(5) possesses, sells, or transfers any information necessary for the use of a financial transaction card, including the credit number of the card, the expiration date of the card, or the personal identification code related to the card:

(a) (i) without the consent of the card holder or the issuer; or

(ii) with the knowledge that the information has been acquired without consent of the card holder or the issuer; and

(b) with intent to use the information in violation of Section 76-6-506.2.

Amended by Chapter 166, 2009 General Session

76-6-506.5. Financial transaction card offenses -- Classification -- Multiple violations.

(1) Any person found guilty of unlawful conduct described in Section 76-6-506.2 or 76-6-506.6 is guilty of:

(a) a class B misdemeanor when the value of the property, money, or thing obtained or sought to be obtained is less than \$500;

(b) a class A misdemeanor when the value of the property, money, or thing obtained or sought to be obtained is or exceeds \$500 but is less than \$1,500;

(c) a third degree felony when the value of the property, money, or thing obtained or attempted to be obtained is or exceeds \$1,500 but is less than \$5,000; and

(d) a second degree felony when the value of the property, money, or thing obtained or attempted to be obtained is or exceeds \$5,000.

(2) Multiple violations of Subsection 76-6-506.2(1), Section 76-6-506.6, and this section may be aggregated into a single offense, and the degree of the offense is determined by the total value of all property, money, or things obtained or attempted to be obtained through the multiple violations.

(3) The court shall make appropriate findings in any prosecution under this

section that the card holder did not commit the crime.

Amended by Chapter 193, 2010 General Session

76-6-506.6. Financial transaction card offenses -- Unauthorized factoring of credit card sales drafts.

It is unlawful for any person, knowingly, with intent to defraud, acting without the express authorization of the issuer, to employ, solicit, or otherwise cause an authorized credit card merchant, or for the authorized credit card merchant himself, to present any credit card sales draft to the issuer for payment pertaining to any sale or purported sale of goods or services which was not made by the authorized credit card merchant in the ordinary course of business.

Enacted by Chapter 60, 1991 General Session

76-6-506.7. Obtaining encoded information on a financial transaction card with the intent to defraud the issuer, holder, or merchant.

(1) As used in this section:

(a) "Financial transaction card" or "card" means any credit card, credit plate, bank services card, banking card, check guarantee card, debit card, telephone credit card, or any other card, issued by an issuer for the use of the card holder in:

(i) obtaining money, goods, services, or anything else of value on credit; or
(ii) certifying or guaranteeing to a merchant the availability to the card holder of the funds on deposit that are equal to or greater than the amount necessary to honor a draft or check as the instrument for obtaining, purchasing, or receiving goods, services, money, or any other thing of value from the merchant.

(b) (i) "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of the owner or operator.

(ii) "Merchant" also means a person:

(A) who receives from a card holder, or a third person the merchant believes to be the card holder, a financial transaction card or information from a financial transaction card, or what the merchant believes to be a financial transaction card or information from a card; and

(B) who accepts the financial transaction card or information from a card under Subsection (1)(a)(ii)(A) as the instrument for obtaining, purchasing, or receiving goods, services, money, or any other thing of value from the merchant.

(c) "Reencoder" means an electronic device that places encoded information from the magnetic strip or stripe of a financial transaction card onto the magnetic strip or stripe of a different financial transaction card.

(d) "Scanning device" means a scanner, reader, or any other electronic device used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a financial transaction card.

(2) (a) A person is guilty of a third degree felony who uses:

(i) a scanning device to access, read, obtain, memorize, or store, temporarily or

permanently, information encoded on the magnetic strip or stripe of a financial transaction card without the permission of the card holder and with intent to defraud the card holder, the issuer, or a merchant; or

(ii) a reencoder to place information encoded on the magnetic strip or stripe of a financial transaction card onto the magnetic strip or stripe of a different card without the permission of the authorized user of the card from which the information is being reencoded and with the intent to defraud the card holder, the issuer, or a merchant.

(b) Any person who has been convicted previously of an offense under Subsection (2)(a) is guilty of a second degree felony upon a second conviction and any subsequent conviction for the offense.

Enacted by Chapter 306, 2003 General Session

76-6-507. Deceptive business practices -- Definitions -- Defense.

(1) A person is guilty of a class B misdemeanor if, in the course of business, he:

(a) uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity;

(b) takes or attempts to take more than the represented quantity of any commodity or service when as buyer he furnishes the weight or measure; or

(c) sells, offers, or exposes for sale adulterated or mislabeled commodities.

(2) (a) "Adulterated" means varying from the standard of composition or quality prescribed, or pursuant to any statute providing criminal penalties for a variance, or set by established commercial usage.

(b) "Mislabeled" means varying from the standard of truth or disclosure in labeling prescribed by or pursuant to any statute providing criminal penalties for a variance, or set by established commercial usage.

(3) It is an affirmative defense to prosecution under this section that the defendant's conduct was not knowing or reckless.

Amended by Chapter 157, 1985 General Session

76-6-508. Bribery of or receiving bribe by person in the business of selection, appraisal, or criticism of goods or services.

(1) A person is guilty of a class A misdemeanor when, without the consent of the employer or principal, contrary to the interests of the employer or principal:

(a) he confers, offers, or agrees to confer upon the employee, agent, or fiduciary of an employer or principal any benefit with the purpose of influencing the conduct of the employee, agent, or fiduciary in relating to his employer's or principal's affairs; or

(b) he, as an employee, agent, or fiduciary of an employer or principal, solicits, accepts, or agrees to accept any benefit from another upon an agreement or understanding that such benefit will influence his conduct in relation to his employer's or principal's affairs; provided that this section does not apply to inducements made or accepted solely for the purpose of causing a change in employment by an employee, agent, or fiduciary.

(2) A person is guilty of violation of this section if he holds himself out to the public as being engaged in the business of making disinterested selection, appraisal, or criticism of goods or services and he solicits, accepts, or agrees to accept any benefit to influence his selection, appraisal, or criticism.

Amended by Chapter 241, 1991 General Session

76-6-509. Bribery of a labor official.

(1) Any person who offers, confers, or agrees to confer upon a labor official any benefit with intent to influence him in respect to any of his acts, decisions, or duties as a labor official is guilty of bribery of a labor official.

(2) Bribery of a labor official is a felony of the third degree.

Enacted by Chapter 196, 1973 General Session

76-6-510. Bribe receiving by a labor official.

(1) Any labor official who solicits, accepts, or agrees to accept any benefit from another person upon an agreement or understanding that the benefit will influence him in any of his acts, decisions, or duties as a labor official is guilty of bribe receiving by a labor official.

(2) Bribe receiving by a labor official is a felony of the third degree.

Enacted by Chapter 196, 1973 General Session

76-6-511. Defrauding creditors.

A person is guilty of a class A misdemeanor if:

(1) he destroys, removes, conceals, encumbers, transfers, or otherwise deals with property subject to a security interest with a purpose to hinder enforcement of that interest; or

(2) knowing that proceedings have been or are about to be instituted for the appointment of a person entitled to administer property for the benefit of creditors, he:

(a) destroys, removes, conceals, encumbers, transfers, or otherwise deals with any property with a purpose to defeat or obstruct the claim of any creditor, or otherwise to obstruct the operation of any law relating to administration of property for the benefit of creditors; or

(b) presents to any creditor or to an assignee for the benefit of creditors, orally or in writing, any statement relating to the debtor's estate, knowing that a material part of such statement is false.

Amended by Chapter 241, 1991 General Session

76-6-512. Acceptance of deposit by insolvent financial institution.

A person is guilty of a felony of the third degree if:

(1) as an officer, manager, or other person participating in the direction of a financial institution, as defined in Section 7-1-103, he receives or permits receipt of a

deposit or other investment knowing that the institution is or is about to become unable, from any cause, to pay its obligations in the ordinary course of business; and

(2) he knows that the person making the payment to the institution is unaware of such present or prospective inability.

Amended by Chapter 10, 1997 General Session

76-6-513. Definitions -- Unlawful dealing of property by a fiduciary -- Penalties.

(1) As used in this section:

(a) "Fiduciary" is as defined in Section 22-1-1.

(b) "Financial institution" means "depository institution" and "trust company" as defined in Section 7-1-103.

(c) "Governmental entity" is as defined in Section 63G-7-102.

(d) "Person" does not include a financial institution whose fiduciary functions are supervised by the Department of Financial Institutions or a federal regulatory agency.

(e) "Property" is as defined in Section 76-6-401.

(f) "Public money" is as defined in Section 76-8-401.

(2) A person is guilty of unlawfully dealing with property by a fiduciary if the person deals with property that has been entrusted to him as a fiduciary, or property of a governmental entity, public money, or of a financial institution, in a manner which the person knows is a violation of the person's duty and which involves substantial risk of loss or detriment to the owner or to a person for whose benefit the property was entrusted. A violation of this Subsection (2) is punishable under Section 76-6-412.

(3) (a) A person acting as a fiduciary is guilty of a violation of this subsection if, without permission of the owner of the property or some other person with authority to give permission, the person pledges as collateral for a personal loan, or as collateral for the benefit of some party, other than the owner or the person for whose benefit the property was entrusted, the property that has been entrusted to the fiduciary.

(b) An offense under Subsection (3)(a) is punishable as:

(i) a felony of the second degree if the value of the property wrongfully pledged is or exceeds \$5,000;

(ii) a felony of the third degree if the value of the property wrongfully pledged is or exceeds \$1,500 but is less than \$5,000;

(iii) a class A misdemeanor if the value of the property is or exceeds \$500, but is less than \$1,500 or the actor has been twice before convicted of theft, robbery, burglary with intent to commit theft, or unlawful dealing with property by a fiduciary; or

(iv) a class B misdemeanor if the value of the property is less than \$500.

Amended by Chapter 193, 2010 General Session

76-6-514. Bribery or threat to influence contest.

A person is guilty of a felony of the third degree if:

(1) With a purpose to influence any participant or prospective participant not to

give his best efforts in a publicly exhibited contest, he confers or offers or agrees to confer any benefit upon or threatens any injury to a participant or prospective participant; or

(2) With a purpose to influence an official in a publicly exhibited contest to perform his duties improperly, he confers or offers or agrees to confer any benefit upon or threatens any injury to such official; or

(3) With a purpose to influence the outcome of a publicly exhibited contest, he tampers with any person, animal, or thing contrary to the rules and usages purporting to govern the contest; or

(4) He knowingly solicits, accepts, or agrees to accept any benefit, the giving of which would be criminal under Subsection (1) or (2).

Enacted by Chapter 196, 1973 General Session

76-6-515. Using or making slugs.

(1) A person is guilty of a class B misdemeanor if:

(a) With a purpose to defraud the supplier of property or a service offered or sold by means of a coin machine, he inserts, deposits, or uses a slug in that machine; or

(b) He makes, possesses, or disposes of a slug with the purpose of enabling a person to use it fraudulently in a coin machine.

(2) As used in this section:

(a) "Coin machine" means any mechanical or electronic device or receptacle designed to receive a coin or bill of a certain denomination, or a token made for the purpose, and, in return for the insertion or deposit thereof, automatically to offer, provide, assist in providing or permit the acquisition of property or a public or private service.

(b) "Slug" means any object which, by virtue of its size, shape, or other quality, is capable of being inserted, deposited, or otherwise used in a coin machine as an improper substitute for a genuine coin, bill, or token.

Enacted by Chapter 196, 1973 General Session

76-6-516. Conveyance of real estate by married man without wife's consent.

Any married man who falsely represents himself as unmarried and under such representation knowingly conveys or mortgages real estate situate in this state, without the assent or concurrence of his wife when such consent or concurrence is necessary to relinquish her inchoate statutory interest therein, is guilty of a felony of the third degree.

Enacted by Chapter 196, 1973 General Session

76-6-517. Making a false credit report.

(1) Any person who knowingly makes a materially false or misleading written

statement to obtain property or credit for himself or another is guilty of making a false credit report.

(2) Making a false credit report is a class A misdemeanor.

Enacted by Chapter 196, 1973 General Session

76-6-518. Criminal simulation.

(1) A person is guilty of criminal simulation if, with intent to defraud another:

(a) he makes or alters an object in whole or in part so that it appears to have value because of age, antiquity, rarity, source, or authorship that it does not have;

(b) he sells, passes, or otherwise utters an object so made or altered;

(c) he possesses an object so made or altered with intent to sell, pass, or otherwise utter it; or

(d) he authenticates or certifies an object so made or altered as genuine or as different from what it is.

(2) Criminal simulation is punishable as follows:

(a) If the value defrauded or intended to be defrauded is less than \$500, the offense is a class B misdemeanor.

(b) If the value defrauded or intended to be defrauded is or exceeds \$500 but is less than \$1,500, the offense is a class A misdemeanor.

(c) If the value defrauded or intended to be defrauded is or exceeds \$1,500 but is less than \$5,000, the offense is a felony of the third degree.

(d) If the value defrauded or intended to be defrauded is or exceeds \$5,000, the offense is a felony of the second degree.

Amended by Chapter 193, 2010 General Session

76-6-520. Criminal usury.

(1) A person is guilty of criminal usury when he knowingly engages in or directly or indirectly provides financing for the business of making loans at a higher rate of interest or consideration therefor than is authorized by law.

(2) Criminal usury is a felony of the third degree.

Enacted by Chapter 196, 1973 General Session

76-6-521. Fraudulent insurance act.

(1) A person commits a fraudulent insurance act if that person with intent to defraud:

(a) presents or causes to be presented any oral or written statement or representation knowing that the statement or representation contains false or fraudulent information concerning any fact material to an application for the issuance or renewal of an insurance policy, certificate, or contract;

(b) presents, or causes to be presented, any oral or written statement or representation:

(i) (A) as part of or in support of a claim for payment or other benefit pursuant to

an insurance policy, certificate, or contract; or

(B) in connection with any civil claim asserted for recovery of damages for personal or bodily injuries or property damage; and

(ii) knowing that the statement or representation contains false or fraudulent information concerning any fact or thing material to the claim;

(c) knowingly accepts a benefit from proceeds derived from a fraudulent insurance act;

(d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees for professional services, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions;

(e) knowingly employs, uses, or acts as a runner, as defined in Section 31A-31-102, for the purpose of committing a fraudulent insurance act;

(f) knowingly assists, abets, solicits, or conspires with another to commit a fraudulent insurance act; or

(g) knowingly supplies false or fraudulent material information in any document or statement required by the Department of Insurance.

(2) (a) A violation of Subsection (1)(a) is a class B misdemeanor.

(b) A violation of Subsections (1)(b) through (1)(g) is punishable as in the manner prescribed by Section 76-10-1801 for communication fraud for property of like value.

(3) A corporation or association is guilty of the offense of insurance fraud under the same conditions as those set forth in Section 76-2-204.

(4) The determination of the degree of any offense under Subsections (1)(b) through (1)(g) shall be measured by the total value of all property, money, or other things obtained or sought to be obtained by the fraudulent insurance act or acts described in Subsections (1)(b) through (1)(g).

Amended by Chapter 104, 2004 General Session

76-6-522. Definitions -- Equity skimming of a vehicle -- Penalties.

(1) As used in this section:

(a) "Broker" means any person who, for compensation of any kind, arranges for the sale, lease, sublease, or transfer of a vehicle.

(b) "Dealer" means any person engaged in the business of selling, leasing, or exchanging vehicles for compensation of any kind.

(c) "Lease" means any grant of use or possession of a vehicle for consideration, with or without an option to buy.

(d) "Security interest" means an interest in a vehicle that secures payment or performance of an obligation.

(e) "Transfer" means any delivery or conveyance of a vehicle to another from one person to another.

(f) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, or through the air or water, or over land and includes a manufactured home or mobile home as defined in Section 41-1a-102.

(2) A dealer or broker or any other person in collusion with a dealer or broker is guilty of equity skimming of a vehicle if he transfers or arranges the transfer of a vehicle for consideration or profit, when he knows or should have known the vehicle is subject to a lease or security interest, without first obtaining written authorization of the lessor or holder of the security interest.

(3) Equity skimming of a vehicle is a third degree felony.

(4) It is a defense to the crime of equity skimming of a vehicle if the accused proves by a preponderance of the evidence that the lease obligation or security interest has been satisfied within 30 days following the transfer of the vehicle.

Amended by Chapter 1, 1992 General Session

76-6-523. Obstruction of the leasing of real property for natural resource or agricultural production -- Criminal penalties.

(1) As used in this section:

(a) "Competitive process" includes public auction or other public competitive bidding process.

(b) "Natural resource or agricultural production" means:

(i) the extraction or production of oil, gas, hydrocarbons, or other minerals;

(ii) production for commercial purposes of crops, livestock, and livestock products, including grazing; or

(iii) activities similar in purpose to those listed in Subsections (1)(b)(i) and (ii).

(2) A person is guilty of obstruction of the leasing of real property for natural resource or agricultural production if the person:

(a) bids for a lease as part of a competitive process for the lease;

(b) does not intend to pay for the lease at the time the person makes the bid described in Subsection (2)(a); and

(c) does not pay the lessor in full for the lease as required by the lease agreement.

(3) The offense of obstruction of the leasing of real property for natural resource or agricultural production is:

(a) a third degree felony; and

(b) subject to a minimum fine of not less than \$7,500.

Enacted by Chapter 306, 2009 General Session

76-6-524. Falsifying information for preconstruction lien purposes.

A person who knowingly falsifies information for the purpose of obtaining priority of a preconstruction lien under Title 38, Chapter 1a, Preconstruction and Construction Liens, is guilty of a class B misdemeanor.

Amended by Chapter 278, 2012 General Session

76-6-601. Definitions.

As used in this chapter:

(1) "Merchandise" means any personal property displayed, held or offered for sale by a merchant.

(2) "Merchant" means an owner or operator of any retail mercantile establishment where merchandise is displayed, held or offered for sale and includes the merchant's employees, servants or agents.

(3) "Minor" means any unmarried person under 18 years of age.

(4) "Peace officer" has the same meaning as provided in Title 53, Chapter 13, Peace Officer Classifications.

(5) "Premises of a retail mercantile establishment" includes, but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking lots or areas set aside for the benefit of those patrons of the retail mercantile establishment.

(6) "Retail mercantile establishment" means any place where merchandise is displayed, held, or offered for sale to the public.

(7) "Retail value" means the merchant's stated or advertised price of the merchandise.

(8) "Shopping cart" means those push carts of the types which are commonly provided by grocery stores, drug stores, or other mercantile establishments or markets for the use of the public in transporting commodities in stores and markets from the store to a place outside the store.

(9) "Under-ring" means to cause the cash register or other sales recording device to reflect less than the retail value of the merchandise.

Amended by Chapter 282, 1998 General Session

76-6-602. Retail theft, acts constituting.

A person commits the offense of retail theft when he knowingly:

(1) Takes possession of, conceals, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the retail value of such merchandise; or

(2) Alters, transfers, or removes any label, price tag, marking, indicia of value or any other markings which aid in determining value of any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment and attempts to purchase such merchandise personally or in consort with another at less than the retail value with the intention of depriving the merchant of the retail value of such merchandise; or

(3) Transfers any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the retail value of such merchandise; or

(4) Under-rings with the intention of depriving the merchant of the retail value of the merchandise; or

(5) Removes a shopping cart from the premises of a retail mercantile establishment with the intent of depriving the merchant of the possession, use or

benefit of such cart.

Enacted by Chapter 78, 1979 General Session

76-6-603. Detention of suspected violator by merchant -- Purposes.

(1) Any merchant who has probable cause to believe that a person has committed retail theft may detain such person, on or off the premises of a retail mercantile establishment, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

(a) to make reasonable inquiry as to whether such person has in his possession unpurchased merchandise and to make reasonable investigation of the ownership of such merchandise;

(b) to request identification;

(c) to verify such identification;

(d) to make a reasonable request of such person to place or keep in full view any merchandise such individual may have removed, or which the merchant has reason to believe he may have removed, from its place of display or elsewhere, whether for examination, purchase, or for any other reasonable purpose;

(e) to inform a peace officer of the detention of the person and surrender that person to the custody of a peace officer;

(f) in the case of a minor, to inform a peace officer, the parents, guardian, or other private person interested in the welfare of that minor immediately, if possible, of this detention and to surrender custody of such minor to such person.

(2) A merchant may make a detention as permitted herein off the premises of a retail mercantile establishment only if such detention is pursuant to an immediate pursuit of such person.

Amended by Chapter 306, 2007 General Session

76-6-604. Defense to action by person detained.

In any action for false arrest, false imprisonment, unlawful detention, defamation of character, assault, trespass, or invasion of civil rights brought by any person detained by the merchant, it shall be a defense to such action that the merchant detaining such person had probable cause to believe that the person had committed retail theft and that the merchant acted reasonably under all circumstances.

Enacted by Chapter 78, 1979 General Session

76-6-606. Penalty.

An act of theft committed in violation of this part shall be punished in accordance with Subsection 76-6-412(1).

Amended by Chapter 236, 2000 General Session

76-6-607. Report of arrest to division.

Any arrest made for a violation of this part shall be reported by the appropriate jurisdiction to the Criminal Investigations and Technical Services Division of the Department of Public Safety, established in Section 53-10-103, which shall keep a record of the arrest together with the disposition of the arrest for purposes of inquiry by any law enforcement agency.

Amended by Chapter 263, 1998 General Session

76-6-608. Theft detection shielding devices prohibited -- Penalties.

(1) A person may not knowingly:

(a) make or possess any container or device used for, intended for use for, or represented as having the purpose of shielding merchandise from any electronic or magnetic theft alarm sensor, with the intent to commit a theft of merchandise;

(b) sell, offer to sell, advertise, give, transport, or otherwise transfer to another any container or device intended for use for or represented as having the purpose of shielding merchandise from any electronic or magnetic theft alarm sensor;

(c) possess any tool or instrument designed to remove any theft detection device from any merchandise, with the intent to use the tool or instrument to remove any theft detection device from any merchandise without the permission of the merchant or the person owning or in possession of the merchandise; or

(d) intentionally remove a theft detection device from merchandise prior to purchase and without the permission of the merchant.

(2) (a) A violation of Subsection (1)(a), (b), or (c) is a class A misdemeanor.

(b) A violation of Subsection (1)(d) is a:

(i) class B misdemeanor if the value of the merchandise from which the theft detection device is removed is less than \$500; or

(ii) class A misdemeanor if the value of the merchandise from which the theft detection device is removed is or exceeds \$500.

(3) A violation of Subsection (1) is a separate offense from any offense listed in Title 76, Chapter 6, Part 4, Theft, or Part 6, Retail Theft.

(4) Criminal prosecutions under this section do not affect any person's right of civil action for redress for damages suffered as a result of any violation of this section.

Amended by Chapter 193, 2010 General Session

76-6-701. Computer Crimes Act -- Short title.

This part is known as the "Utah Computer Crimes Act."

Amended by Chapter 123, 1986 General Session

76-6-702. Definitions.

As used in this part:

(1) "Access" means to directly or indirectly use, attempt to use, instruct, communicate with, cause input to, cause output from, or otherwise make use of any resources of a computer, computer system, computer network, or any means of

communication with any of them.

(2) "Authorization" means having the express or implied consent or permission of the owner, or of the person authorized by the owner to give consent or permission to access a computer, computer system, or computer network in a manner not exceeding the consent or permission.

(3) "Computer" means any electronic device or communication facility that stores, retrieves, processes, or transmits data.

(4) "Computer system" means a set of related, connected or unconnected, devices, software, or other related computer equipment.

(5) "Computer network" means:

(a) the interconnection of communication or telecommunication lines between:

(i) computers; or

(ii) computers and remote terminals; or

(b) the interconnection by wireless technology between:

(i) computers; or

(ii) computers and remote terminals.

(6) "Computer property" includes electronic impulses, electronically produced data, information, financial instruments, software, or programs, in either machine or human readable form, any other tangible or intangible item relating to a computer, computer system, computer network, and copies of any of them.

(7) "Confidential" means data, text, or computer property that is protected by a security system that clearly evidences that the owner or custodian intends that it not be available to others without the owner's or custodian's permission.

(8) "Information" does not include information obtained:

(a) through use of:

(i) an electronic product identification or tracking system; or

(ii) other technology used by a retailer to identify, track, or price goods; and

(b) by a retailer through the use of equipment designed to read the electronic product identification or tracking system data located within the retailer's location.

(9) "License or entitlement" includes:

(a) licenses, certificates, and permits granted by governments;

(b) degrees, diplomas, and grades awarded by educational institutions;

(c) military ranks, grades, decorations, and awards;

(d) membership and standing in organizations and religious institutions;

(e) certification as a peace officer;

(f) credit reports; and

(g) another record or datum upon which a person may be reasonably expected to rely in making decisions that will have a direct benefit or detriment to another.

(10) "Security system" means a computer, computer system, network, or computer property that has some form of access control technology implemented, such as encryption, password protection, other forced authentication, or access control designed to keep out unauthorized persons.

(11) "Services" include computer time, data manipulation, and storage functions.

(12) "Financial instrument" includes any check, draft, money order, certificate of

deposit, letter of credit, bill of exchange, electronic fund transfer, automated clearing house transaction, credit card, or marketable security.

(13) "Software" or "program" means a series of instructions or statements in a form acceptable to a computer, relating to the operations of the computer, or permitting the functioning of a computer system in a manner designed to provide results including system control programs, application programs, or copies of any of them.

Amended by Chapter 72, 2005 General Session

76-6-703. Computer crimes and penalties.

(1) A person who without authorization gains or attempts to gain access to and alters, damages, destroys, discloses, or modifies any computer, computer network, computer property, computer system, computer program, computer data or software, and thereby causes damage to another, or obtains money, property, information, or a benefit for any person without legal right, is guilty of:

(a) a class B misdemeanor when:

(i) the damage caused or the value of the money, property, or benefit obtained or sought to be obtained is less than \$500; or

(ii) the information obtained is not confidential;

(b) a class A misdemeanor when the damage caused or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds \$500 but is less than \$1,500;

(c) a third degree felony when the damage caused or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds \$1,500 but is less than \$5,000;

(d) a second degree felony when the damage caused or the value of the money, property, or benefit obtained or sought to be obtained is or exceeds \$5,000; or

(e) a third degree felony when:

(i) the property or benefit obtained or sought to be obtained is a license or entitlement;

(ii) the damage is to the license or entitlement of another person; or

(iii) the information obtained is confidential; or

(iv) in gaining access the person breaches or breaks through a security system.

(2) (a) Except as provided in Subsection (2)(b), a person who intentionally or knowingly and without authorization gains or attempts to gain access to a computer, computer network, computer property, or computer system under circumstances not otherwise constituting an offense under this section is guilty of a class B misdemeanor.

(b) Notwithstanding Subsection (2)(a), a retailer that uses an electronic product identification or tracking system, or other technology to identify, track, or price goods is not guilty of a violation of Subsection (2)(a) if the equipment designed to read the electronic product identification or tracking system data and used by the retailer to identify, track, or price goods is located within the retailer's location.

(3) A person who uses or knowingly allows another person to use any computer, computer network, computer property, or computer system, program, or software to devise or execute any artifice or scheme to defraud or to obtain money, property,

services, or other things of value by false pretenses, promises, or representations, is guilty of an offense based on the value of the money, property, services, or things of value, in the degree set forth in Subsection 76-10-1801(1).

(4) A person who intentionally or knowingly and without authorization, interferes with or interrupts computer services to another authorized to receive the services is guilty of a class A misdemeanor.

(5) It is an affirmative defense to Subsections (1) and (2) that a person obtained access or attempted to obtain access in response to, and for the purpose of protecting against or investigating, a prior attempted or successful breach of security of a computer, computer network, computer property, computer system whose security the person is authorized or entitled to protect, and the access attempted or obtained was no greater than reasonably necessary for that purpose.

Amended by Chapter 193, 2010 General Session

76-6-704. Attorney general, county attorney, or district attorney to prosecute -- Conduct violating other statutes.

(1) The attorney general, district attorney, or the county attorney shall prosecute suspected criminal violations of this part.

(2) Prosecution under this part does not prevent any prosecutions under any other law.

Amended by Chapter 38, 1993 General Session

76-6-705. Reporting violations.

Every person, except those to whom a statutory or common law privilege applies, who has reason to believe that the provisions of Section 76-6-703 are being or have been violated shall report the suspected violation to the attorney general, or county attorney, or, if within a prosecution district, the district attorney of the county or prosecution district in which part or all of the violations occurred.

Amended by Chapter 38, 1993 General Session

76-6-801. Acts constituting library theft.

A person is guilty of the crime of library theft when he willfully, for the purpose of converting to personal use, and depriving the owner, conceals on his person or among his belongings library materials while on the premises of the library or willfully and without authority removes library materials from the library building with the intention of converting them to his own use.

Amended by Chapter 245, 1987 General Session

76-6-802. Presumption of intent.

A person who willfully conceals library materials on his person or among his belongings while on the premises of the library or in its immediate vicinity is prima facie

presumed to have concealed library materials with the intention of converting them to his own use. If library materials are found concealed upon his person or among his belongings, or electronic security devices are activated by the person's presence, it is prima facie evidence of willful concealment.

Amended by Chapter 245, 1987 General Session

76-6-803. Mutilation or damaging of library material as library theft.

A person is guilty of the crime of library theft when he intentionally or recklessly writes upon, injures, defaces, tears, cuts, mutilates, destroys, or otherwise damages library materials.

Amended by Chapter 245, 1987 General Session

76-6-803.30. Failure to return library material as library theft -- Notice -- Failure to pay replacement value -- Written notice.

(1) A person is guilty of library theft when, having possession or having been in possession of library materials, he:

(a) fails to return the materials within 30 days after receiving written notice demanding return of the materials; or

(b) if the materials are lost or destroyed, fails to pay the replacement value of the materials within 30 days after being notified.

(2) Written notice is considered received upon the sworn affidavit of the person delivering the notice with a statement as to the date, place, and manner of delivery, or upon proof that the notice was mailed postage prepaid, via the United States Postal Service, to the current address listed for the person in the library records.

Enacted by Chapter 245, 1987 General Session

76-6-803.60. Detention of theft suspect by library employee -- Purposes.

(1) Any employee of the library who has probable cause to believe that a person has committed library theft may detain the person, on or off the premises of a library, in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

(a) to make reasonable inquiry as to whether the person has in his possession concealed library materials;

(b) to request identification;

(c) to verify identification;

(d) to make a reasonable request of the person to place or keep in full view any library materials the individual may have removed, or which the employee has reason to believe he may have removed, from its place of display or elsewhere, whether for examination, or for any other reasonable purpose;

(e) to inform a peace officer of the detention of the person and surrender that person to the custody of a peace officer; or

(f) in the case of a minor, to inform a peace officer, the parents, guardian, or

other private person interested in the welfare of the minor as soon as possible of this detention and to surrender custody of the minor to this person.

(2) An employee may make a detention under this section off the library premises only if the detention is pursuant to an immediate pursuit of the person.

Enacted by Chapter 245, 1987 General Session

76-6-803.90. Liability -- Defense -- Probable cause -- Reasonableness.

In any action for false arrest, false imprisonment, unlawful detention, defamation of character, assault, trespass, or invasion of civil rights brought by any person detained by an employee of the library, it is a defense to the action that the employee of the library detaining the person had probable cause to believe that the person had committed library theft and that the employee acted reasonably under all circumstances.

Enacted by Chapter 245, 1987 General Session

76-6-804. "Book or other library materials" defined.

The terms "book or other library materials" as used in this act include any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microfilm, sound recording, audiovisual materials in any format, electronic data processing records, artifacts, or other documentary, written or printed materials regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of the following:

- (1) any public library;
- (2) any library of an educational or historical society;
- (3) any museum; or
- (4) any repository of public records.

Enacted by Chapter 168, 1981 General Session

76-6-805. Penalty.

Any person violating the provisions of this act shall be subject to provisions of Section 76-6-412.

Enacted by Chapter 168, 1981 General Session

76-6-901. Definitions.

As used in this part:

- (1) "Antiquities" means:
 - (a) all material remains and their associations, recoverable through excavation or surface collection, that provide information pertaining to the historic or prehistoric peoples in the state; and
 - (b) vertebrate fossils and other exceptional fossils and fossil sites designated as state landmarks.

(2) "Landowner" includes the School and Institutional Trust Lands Administration with respect to lands sold by the School and Institutional Trust Lands Administration and upon which a restrictive deed covenant has been imposed by the School and Institutional Trust Lands Administration.

(3) "Persons" means an individual, corporation, partnership, trust, institution, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the United States, of any Native American tribe, or of any state or political subdivision of any state.

(4) "State lands" means all lands owned by:

(a) Utah, including school and institutional trust lands and lands sold by the School and Institutional Trust Lands Administration subject to a restrictive deed covenant for the protection of antiquities; and

(b) political subdivisions.

Amended by Chapter 111, 2006 General Session

76-6-902. Prohibitions.

(1) It is unlawful for any person to intentionally alter, remove, injure, or destroy antiquities from state lands or private lands without the landowner's consent.

(2) It is unlawful to intentionally reproduce, rework, or forge any antiquities or make any object, whether copies or not, or falsely label, describe, identify, or offer for sale or exchange any object with the intent to represent the object as original and genuine, nor may any person offer any object for sale or exchange that was collected or excavated in violation of this chapter.

Amended by Chapter 111, 2006 General Session

76-6-903. Penalties.

(1) A person is guilty of a class B misdemeanor if that person:

(a) violates this part; or

(b) counsels, procures, solicits, or employs any other person to violate this part.

(2) A person is guilty of a third degree felony if:

(a) that person commits a second or subsequent violation described in Subsection (1); or

(b) the amount calculated under Subsection (3) for a violation described in Subsection (1) exceeds \$500.

(3) The amount described in Subsection (2)(b) is calculated by adding the:

(a) commercial or archaeological value of the antiquities involved in the violation; and

(b) cost of the restoration and repair of the antiquities involved in the violation.

(4) All articles and material discovered, collected, excavated, or offered for sale or exchange shall be surrendered to the landowner.

Amended by Chapter 394, 2013 General Session

76-6-1001. Definitions.

As used in this part:

- (1) "Key" means any instrument used by the postal service and postal customer, and which is designed to operate the lock on a mail receptacle.
- (2) "Mail" means any letter, card, parcel, or other material, along with its contents, that:
 - (a) has postage affixed by the postal customer or postal service;
 - (b) has been accepted for delivery by the postal service;
 - (c) the postal customer leaves for collection by the postal service; or
 - (d) the postal service delivers to the postal customer.
- (3) "Mail receptacle" means a mail box, post office box, rural box, or any place intended or used by postal customers or the postal service for the collection or delivery of mail.
- (4) "Postage" means a postal service stamp, permit imprint, meter strip, or other indication of either prepayment for postal service provided or authorization by the postal service for collection and delivery of mail.
- (5) "Postal service" means the United States Postal Service and any motor carrier engaged in the business of collecting, transporting, and delivering mail.

Enacted by Chapter 87, 1998 General Session

76-6-1002. Damage to mail receptacle -- Penalties -- Greater offenses.

- (1) A person commits the crime of damage to a mail receptacle if the person knowingly damages the condition of a mail receptacle, including:
 - (a) taking, concealing, damaging, or destroying a key; or
 - (b) breaking open, tearing down, taking, damaging, or destroying a mail receptacle.
- (2) (a) In determining the degree of an offense committed under Subsection (1), the penalty levels in Subsection 76-6-106(3)(b) apply.
- (b) If the act committed amounts to an offense subject to a greater penalty, this subsection does not prohibit prosecution and sentencing for the more serious offense.

Amended by Chapter 166, 2002 General Session

76-6-1003. Mail theft -- Penalties.

- (1) A person commits the crime of mail theft if the person:
 - (a) knowingly, and with the intent to deprive another:
 - (i) takes, destroys, hides, or embezzles mail; or
 - (ii) obtains any mail by fraud or deception; or
 - (b) buys, receives, conceals, or possesses mail and knows or reasonably should have known that the mail was unlawfully taken or obtained.
- (2) Mail theft is a:
 - (a) felony of the second degree if the value of the mail is or exceeds \$5,000;
 - (b) felony of the third degree if the value of the mail is or exceeds \$1,000, but is less than \$5,000 in value; and

(c) class A misdemeanor if the value of the mail is less than \$1,000 in value or the value cannot be ascertained.

Amended by Chapter 340, 2004 General Session

76-6-1004. Presumptions and defenses.

(1) The presumptions and defenses regarding the theft of property in Section 76-6-402 apply to this part, in addition to the provisions of this section.

(2) It is a defense to a charge of mail theft that:

- (a) the defendant was unaware that the mail belonged to another person;
- (b) the defendant reasonably believed he was entitled to the mail or had a right to acquire or dispose of the mail as he did; or
- (c) the mail belonged to the defendant's spouse, unless the parties were either legally separated or living in separate residences at the time of the alleged mail theft.

Enacted by Chapter 87, 1998 General Session

76-6-1101. Identity fraud.

This part is known as the "Identity Fraud Act."

Enacted by Chapter 57, 2000 General Session

76-6-1102. Identity fraud crime.

(1) As used in this part, "personal identifying information" may include:

- (a) name;
 - (b) birth date;
 - (c) address;
 - (d) telephone number;
 - (e) drivers license number;
 - (f) Social Security number;
 - (g) place of employment;
 - (h) employee identification numbers or other personal identification numbers;
 - (i) mother's maiden name;
 - (j) electronic identification numbers;
 - (k) electronic signatures under Title 46, Chapter 4, Uniform Electronic Transactions Act;
 - (l) any other numbers or information that can be used to access a person's financial resources or medical information, except for numbers or information that can be prosecuted as financial transaction card offenses under Sections 76-6-506 through 76-6-506.6; or
 - (m) a photograph or any other realistic likeness.
- (2) (a) A person is guilty of identity fraud when that person knowingly or intentionally uses, or attempts to use, the personal identifying information of another person, whether that person is alive or deceased, with fraudulent intent, including to obtain, or attempt to obtain, credit, goods, services, employment, any other thing of

value, or medical information.

(b) It is not a defense to a violation of Subsection (2)(a) that the person did not know that the personal information belonged to another person.

(3) Identity fraud is:

(a) except as provided in Subsection (3)(b)(ii), a third degree felony if the value of the credit, goods, services, employment, or any other thing of value is less than \$5,000; or

(b) a second degree felony if:

(i) the value of the credit, goods, services, employment, or any other thing of value is or exceeds \$5,000; or

(ii) the use described in Subsection (2)(a)(ii) of personal identifying information results, directly or indirectly, in bodily injury to another person.

(4) Multiple violations may be aggregated into a single offense, and the degree of the offense is determined by the total value of all credit, goods, services, or any other thing of value used, or attempted to be used, through the multiple violations.

(5) When a defendant is convicted of a violation of this section, the court shall order the defendant to make restitution to any victim of the offense or state on the record the reason the court does not find ordering restitution to be appropriate.

(6) Restitution under Subsection (5) may include:

(a) payment for any costs incurred, including attorney fees, lost wages, and replacement of checks; and

(b) the value of the victim's time incurred due to the offense:

(i) in clearing the victim's credit history or credit rating;

(ii) in any civil or administrative proceedings necessary to satisfy or resolve any debt, lien, or other obligation of the victim or imputed to the victim and arising from the offense; and

(iii) in attempting to remedy any other intended or actual harm to the victim incurred as a result of the offense.

Amended by Chapter 77, 2013 General Session

Amended by Chapter 119, 2013 General Session

Amended by Chapter 278, 2013 General Session

76-6-1103. Investigation of violation.

In addition to investigations conducted by law enforcement agencies, the Office of the Attorney General also has responsibility for investigating violations of this part where identity fraud is the primary violation that is alleged to have been committed.

Amended by Chapter 227, 2004 General Session

76-6-1104. Court records.

In any case in which a person commits identify fraud and uses the personal identifying information obtained to commit a crime in addition to the identity fraud, the court shall make appropriate findings in any prosecution of such a crime that the person whose identity was falsely used to commit the crime did not commit the crime.

Enacted by Chapter 57, 2000 General Session

76-6-1105. Unlawful possession of another's identification documents.

(1) For purposes of this section "identifying document" means:

- (a) a government issued identifying document;
- (b) a vehicle registration certificate; or
- (c) any other document containing personal identifying information as defined in Subsections 76-6-1102(1)(d) through (k).

(2) (a) Notwithstanding the provisions of Subsection 76-6-1102(3), a person is guilty of a class A misdemeanor if he:

(i) obtains or possesses an identifying document with knowledge that he is not entitled to obtain or possess the identifying document; or

(ii) assists another person in obtaining or possessing an identifying document with knowledge that the person is not entitled to obtain or possess the identifying document.

(b) A person is guilty of a third degree felony if he:

(i) obtains or possesses multiple identifying documents with knowledge that he is not entitled to obtain or possess the multiple identifying documents; or

(ii) assists another person in obtaining or possessing multiple identifying documents with knowledge that the person is not entitled to obtain or possess the multiple identifying documents.

(c) For purposes of Subsection (2)(b), "multiple identifying documents" means identifying documents of two or more people.

Enacted by Chapter 227, 2004 General Session

76-6-1201. Title.

This part is known as the "Utah Mortgage Fraud Act."

Enacted by Chapter 370, 2008 General Session

76-6-1202. Definitions.

As used in this part:

(1) "Mortgage lending process" means the process through which a person seeks or obtains a mortgage loan, including solicitation, application, or origination, negotiation of terms, third-party provider services, underwriting, signing and closing, and funding of the loan.

(2) "Mortgage loan":

(a) means a loan or agreement made to extend credit to a person when the loan is secured by a deed, security deed, mortgage, security interest, deed of trust, or other document representing a security interest or lien upon any interest in one-to-four family residential property; and

(b) includes the renewal or refinancing of any loan.

(3) "Pattern of unlawful activity" has the same definition as in Section

76-10-1602.

(4) "Sensitive personal identifying information" includes:

(a) the following information regarding an individual's:

(i) Social Security number;

(ii) driver license number or other government issued identification number;

(iii) financial account number or credit or debit card number;

(iv) password or personal identification number or other identification required to gain access to a financial account or a secure website;

(v) automated or electronic signature; and

(vi) unique biometric data; and

(b) any other information that can be used to gain access to an individual's financial accounts or to obtain goods or services.

(5) "Value" means the value of the property, money, or thing obtained or sought to be obtained.

Enacted by Chapter 370, 2008 General Session

76-6-1203. Mortgage fraud.

A person commits the offense of mortgage fraud if the person does any of the following with the intent to defraud:

(1) knowingly makes any material misstatement, misrepresentation, or omission during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;

(2) knowingly uses or facilitates the use of any material misstatement, misrepresentation, or omission, during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, or any other party to the mortgage lending process;

(3) files or causes to be filed with any county recorder in Utah any document that the person knows contains a material misstatement, misrepresentation, or omission; or

(4) receives any proceeds or any compensation in connection with a mortgage loan that the person knows resulted from a violation of this section.

Enacted by Chapter 370, 2008 General Session

76-6-1204. Classification of offense.

(1) Notwithstanding any other administrative, civil, or criminal penalties, a person who violates Section 76-6-1203 is guilty of a:

(a) class A misdemeanor when the value is or exceeds \$500 but is less than \$1,500;

(b) third degree felony when the value is or exceeds \$1,500 but is less than \$5,000;

(c) second degree felony when the value is or exceeds \$5,000; and

(d) second degree felony when the object or purpose of the commission of an act of mortgage fraud is the obtaining of sensitive personal identifying information,

regardless of the value.

(2) The determination of the degree of any offense under Subsection (1) is measured by the total value of all property, money, or things obtained or sought to be obtained by a violation of Section 76-6-1203, except as provided in Subsection (1)(d).

(3) Each residential or commercial property transaction offense under this part constitutes a separate violation.

Amended by Chapter 193, 2010 General Session

76-6-1301. Title.

This part is known as the "Utah Automated Sales Suppression Device Act."

Enacted by Chapter 32, 2012 General Session

76-6-1302. Definitions.

As used in this part:

(1) "Automated sales suppression device" means:

(a) a software program that falsifies the electronic records of electronic cash registers or any other point-of-sale systems, including transaction data and transaction reports; or

(b) a general reference to a device that allows for, creates, or supports an automated sales suppression system or any kind of phantomware.

(2) "Electronic cash register" means any device, wherever located, that maintains a transaction register or supporting documents by means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail, wholesale, or any other sales transaction data.

(3) "Person" means an individual, business, or entity.

(4) "Phantomware" means a programming option that:

(a) is pre-installed, installed at a later time, or otherwise embedded in the operating system of an electronic cash register or hardwired into the electronic cash register; and

(b) can be used to create a virtual alternate register or to eliminate or manipulate transaction records that may or may not be preserved in digital formats in order to represent a manipulated record or records of transactions in the electronic cash register.

(5) "Transaction data" includes items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change or in a refund, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.

(6) "Transaction report" means a report that includes the sales, taxes collected, media totals, and discount voids at an electronic cash register and that is generated at the end of a day or shift. The report is printed on cash register tape or is stored

electronically.

Enacted by Chapter 32, 2012 General Session

76-6-1303. Possession, sale, or use of automated sales suppression device unlawful -- Penalties.

(1) It is a third degree felony to willfully or knowingly sell, purchase, install, transfer, use, or possess in this state any automated sales suppression device or phantomware with the intent to defraud, except that any second or subsequent violation of this Subsection (1) is a second degree felony.

(2) Notwithstanding Section 76-3-301, any person convicted of violating Subsection (1) may be fined not more than twice the amount of the applicable taxes that would otherwise be due, but for the use of the automated sales suppression device or phantomware.

(3) Any person convicted of a violation of Subsection (1):

(a) is liable for all applicable taxes, penalties under Section 59-1-401, and interest under Section 59-1-402 that would otherwise be due, but for the use of the automated sales suppression device or phantomware to evade the payment of taxes; and

(b) shall disgorge all profits associated with the sale or use of an automated sales suppression device or phantomware.

(4) An automated sales suppression device and any device containing an automated sales suppression device is contraband and subject to forfeiture under Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act.

Enacted by Chapter 32, 2012 General Session

76-6-1401. Title.

This part is known as "Regulation of Metal Dealers."

Renumbered and Amended by Chapter 187, 2013 General Session

76-6-1402. Definitions.

As used in this part:

(1) "Catalytic converter" means a motor vehicle exhaust system component that reduces vehicle emissions by breaking down harmful exhaust emissions.

(2) "Dealer" means:

(a) a scrap metal processor or secondary metals dealer or recycler, but does not include junk dealers or solid waste management facilities as defined in Section 19-6-502; or

(b) a metals refiner.

(3) "Ferrous metal" means a metal that contains significant quantities of iron or steel.

(4) "Identification" means a form of positive identification issued by a state of the United States or the United States federal government that:

- (a) contains a numerical identifier and a photograph of the person identified;
- (b) provides the date of birth of the person identified; and
- (c) includes a state identification card, a state driver license, a United States military identification card, or a United States passport.

(5) "Junk dealer" means all persons, firms, or corporations engaged in the business of purchasing or selling secondhand or castoff material, including ropes, cordage, bottles, bagging, rags, rubber, paper, and other like materials, but not including regulated metal.

(6) "Local law enforcement agency" means the law enforcement agency that has jurisdiction over the area where the dealer's business is located.

(7) "Metals refiner" means an individual or business that refines or melts any regulated metal, but does not include an individual or business that primarily uses ore, concentrate, or other primary materials in refining, melting, or producing any regulated metal.

(8) "Nonferrous metal":

- (a) means a metal that does not contain significant quantities of iron or steel; and

- (b) includes copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

(9) (a) "Regulated metal" means any item composed primarily of nonferrous metal, except as provided in Subsection (9)(c).

(b) "Regulated metal" includes:

- (i) aluminum, brass, copper, lead, chromium, tin, nickel, or alloys of these metals, except under Subsection (9)(c);

- (ii) property owned by, and also identified by marking or other means as the property of:

- (A) a telephone, cable, electric, water, or other utility; or

- (B) a railroad company;

- (iii) unused and undamaged building construction materials made of metal or alloy, including:

- (A) copper pipe, tubing, or wiring; and

- (B) aluminum wire, siding, downspouts, or gutters;

- (iv) oil well rigs, including any part of the rig;

- (v) nonferrous materials, stainless steel, and nickel; and

- (vi) irrigation pipe.

(c) "Regulated metal" does not include:

- (i) ferrous metal, except as provided in Subsection (9)(b)(ii) or (iv);

- (ii) household-generated recyclable materials;

- (iii) items composed wholly of light iron or sheet steel;

- (iv) aluminum beverage containers; or

- (v) containers used solely for containing food.

(10) "Secondary metals dealer or recycler" means any person who:

- (a) is engaged in the business of purchasing, collecting, or soliciting regulated metal; or

- (b) operates or maintains a facility where regulated metal is purchased or kept

for shipment, sale, transfer, or salvage.

(11) "Scrap metal processor" means any person:

(a) who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel, or nonferrous scrap into prepared grades; and

(b) whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap, not including precious metals, for sale for remelting purposes.

(12) "Suspect metal items" are the following items made of regulated metal:

(a) manhole covers and sewer grates;

(b) gas meters and water meters;

(c) traffic signs, street signs, aluminum street light poles, communications transmission towers, and guard rails;

(d) grave site monument vases and monument plaques;

(e) any monument plaque;

(f) brass or bronze bar stock and bar ends;

(g) ingots;

(h) nickel and nickel alloys containing greater than 50% nickel;

(i) #1 and #2 copper as defined by the most recent institute of Scrap Recycling Industries, Inc., Scrap Specifications Circular;

(j) unused and undamaged building materials, including:

(i) greenline copper;

(ii) copper pipe, tubing, or wiring; and

(iii) aluminum wire, siding, downspouts, or gutters;

(k) catalytic converters; and

(l) wire that has been burned or that has the appearance of having been burned.

Amended by Chapter 261, 2014 General Session

76-6-1403. Records of sales and purchases -- Identification required.

(1) Every dealer shall:

(a) require the information under Subsection (2) for each transaction of regulated metal, except under Subsection 76-6-1406(4); and

(b) maintain for each purchase of regulated metal the information required by this part in a written or electronic log, in the English language.

(2) The dealer shall require the following information of the seller and shall record the information as required under Subsection (1) for each purchase of regulated metal:

(a) a complete description of the regulated metal, including weight and metallic description, in accordance with scrap metal recycling industry standards;

(b) the full name and residence of each person selling the regulated metal;

(c) the vehicle type and license plate number, if applicable, of the vehicle transporting the regulated metal to the dealer;

(d) the price per pound and the amount paid for each type of regulated metal purchased by the dealer;

(e) the date, time, and place of the purchase;

(f) the type and the identifying number of the identification provided in Subsection (2)(g);

(g) a form of identification that is a valid United States federal or state-issued photo ID, which includes a driver license, a United States passport, a United States passport card, or a United States military identification card;

(h) the seller's signature on a certificate stating that he has the legal right to sell the scrap metal or junk; and

(i) a digital photograph or still video of the seller, taken at the time of the sale, or a clearly legible photocopy of the seller's identification.

(3) No entry in the log may be erased, deleted, mutilated, or changed.

(4) The log and entries shall be open to inspection by the following officials having jurisdiction over the area in which the dealer does business during regular business hours:

(a) the county sheriff or deputies;

(b) any law enforcement agency; and

(c) any constable or other state, municipal, or county official in the county in which the dealer does business.

(5) A dealer shall make these records available for inspection by any law enforcement agency, upon request, at the dealer's place of business during the dealer's regular business hours.

(6) Log entries made under this section shall be maintained for not less than three years from date of entry.

(7) (a) The dealer may maintain the information required by Subsection (2) for repeat sellers who use the same vehicle to bring regulated metal for each transaction in a relational database that allows the dealer to enter an initial record of the seller's information and then relate subsequent transaction records to that initial information, except under Subsection (7)(b).

(b) The dealer shall obtain regarding each transaction with repeat sellers:

(i) a photograph of the seller; and

(ii) a signature from the seller.

Amended by Chapter 261, 2014 General Session

76-6-1404. Notice to sellers of identification requirements.

A dealer shall at all times maintain in a prominent place at the dealer's place of business, in open view to a seller of regulated metal, a clearly legible notice in not less than two-inch high lettering that contains the following language: "A PERSON ATTEMPTING TO SELL ANY REGULATED METAL MUST PROVIDE IDENTIFICATION AS REQUIRED BY STATE LAW".

Renumbered and Amended by Chapter 187, 2013 General Session

76-6-1405. Qualifications to sell to dealer.

(1) A dealer may not purchase regulated metal from a person younger than 18 years of age.

(2) If the person is unable to comply with all the identification requirements of Subsection 76-6-1403(2), the dealer may not conduct a transaction of regulated metal with that person.

Renumbered and Amended by Chapter 187, 2013 General Session

76-6-1406. Restrictions on the purchase of regulated metal -- Exemption.

(1) A dealer may conduct purchase transactions involving regulated metal only between the hours of 6 a.m. and 7 p.m.

(2) Except when the dealer pays a government entity by check for regulated metal, the dealer may not purchase any of the following regulated metal without obtaining and keeping on file reasonable documentation that the seller is an employee, agent, or contractor of a governmental entity who is authorized to sell the item of regulated metal property on behalf of the governmental entity:

- (a) a manhole cover or sewer grate;
- (b) an electric light pole; or
- (c) a guard rail.

(3) (a) A dealer may not purchase suspect metal without obtaining the information under Subsection (3)(b) identifying the owner of the suspect metal.

(b) The owner of the suspect metal shall provide in writing:

- (i) the owner's telephone number;
- (ii) the owner's business or residential address, which may not be a post box;
- (iii) a copy of the owner's driver license; and
- (iv) a signed statement that the person is the lawful owner of the suspect metal and authorizes the seller, identified by name, to sell the suspect metal.

(c) The dealer shall keep the identifying information provided in Subsection (3)(b) on file for not less than one year.

(4) Transactions with businesses that have an established account with the dealer are exempt from the requirements of Subsections (2) and (3) if the business holds a valid business license, and:

(a) (i) the dealer has on file a statement from the business identifying those employees authorized to sell all metals to the dealer; and

(ii) the dealer conducts regulated metal transactions only with those identified employees of the business and records the name of the employee when recording the transaction;

(b) the dealer has on file reasonable documentation from the business that any person verified as representing the business as an employee, and whom the dealer has verified is an employee, may sell regulated metal; or

(c) the dealer makes payment for regulated metal purchased from a person by issuing a check to the business employing the seller.

Renumbered and Amended by Chapter 187, 2013 General Session

76-6-1407. Violation by dealer -- Penalty -- Local regulation not less stringent.

(1) (a) Any dealer who violates any of the provisions of this part is guilty of a class C misdemeanor.

(b) A violation of Subsection (1)(a) that occurs after the defendant has been convicted of a violation of Subsection (1)(a) is a class A misdemeanor.

(2) This section does not impair the authority of a county or municipality in this state to license, tax, and regulate any junk dealer or metal dealer, except that local regulations may not be any less stringent than the provisions in this part.

(3) This section does not impair the authority of a county or municipality to revoke or deny any business license or permit required by that county or municipality regulating the authority to sell, purchase, or possess metal, including the revocation or denial of a business license or permit based on a violation of this part.

(4) This section does not prohibit the charging of a seller or dealer with any other criminal offense related to the obtaining, possession, or selling of stolen regulated metals.

Renumbered and Amended by Chapter 187, 2013 General Session

76-6-1408. Falsification of seller's statement to dealer.

(1) Any seller who, in providing any information as required by this part in selling, offering, or attempting to sell regulated metal willfully makes a false statement or provides any untrue information, is guilty of a class B misdemeanor.

(2) A violation of Subsection (1) that occurs after the defendant has been convicted of a violation of Subsection (1) is a class A misdemeanor.

Renumbered and Amended by Chapter 187, 2013 General Session

76-6-1409. Hold on stolen regulated metal property -- Hold notice.

(1) If a law enforcement agency has reasonable cause to believe that items of regulated metal in the possession of a dealer are stolen, the law enforcement agency may issue a written hold notice. The hold notice shall:

(a) identify those items of regulated metal alleged to be stolen and subject to hold; and

(b) inform the dealer of the restrictions imposed on the regulated metal property under Subsection (2).

(2) For 60 days after the date of receiving a hold notice, a dealer may not process or remove from the dealer's place of business any regulated metal identified in the hold notice, unless the property is released earlier by the law enforcement agency or by order of a court of competent jurisdiction.

(3) On the expiration of the hold notice period, the hold is automatically released, and the dealer may dispose of the regulated metal, unless otherwise directed by a court of competent jurisdiction.

Renumbered and Amended by Chapter 187, 2013 General Session